

## Council Communication

Department: Finance Applicant: Arthur Hill Finance Director	Ordinance No. _____ Resolution No. <u>10-66</u>	Council Action: <u>2/22/ 2010</u>
<b>Subject/Title</b>		
Council consideration of a resolution approving and authorizing a form of loan agreement and provide for the issuance of \$3,685,000 general obligation refunding capital loan notes, series 2010A, and levying a tax to pay the notes.		
<b>Background/Discussion</b>		
<p>On January 25, 2010 a public hearing was held to receive public comment regarding the city issuance of refunding general obligation bonds issued May 29, 2003. No dissenting comments were made. In addition, on that date council authorized going forward with pricing bonds on February 8, 2010.</p> <p>On February 8, 2010 bids were received and at the council meeting, authorization to issued refunding bonds was approved.</p> <p>At this stage, the council must approve and authorize a form of loan agreement and provide for the issuance of \$3,685,000 general obligation refunding capital loan notes, series 2010A, and levying a tax to pay the notes.</p>		
<b>Recommendation</b>		
Adoption of a resolution approving and authorizing a form of loan agreement and provide for the issuance of \$3,685,000 general obligation refunding capital loan notes, series 2010A, and levying a tax to pay the notes.		

\_\_\_\_\_  
Department Head Signature

\_\_\_\_\_  
Mayor Signature

Council Member \_\_\_\_\_ moved that the form of Tax Exemption Certificate be placed on file and approved. Council Member \_\_\_\_\_ seconded the motion. The roll was called and the vote was,

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYS: \_\_\_\_\_

Council Member \_\_\_\_\_ moved that the form of Continuing Disclosure Certificate be placed on file and approved. Council Member \_\_\_\_\_ seconded the motion. The roll was called and the vote was,

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYS: \_\_\_\_\_

Council Member \_\_\_\_\_ introduced the following Resolution entitled "RESOLUTION APPROVING AND AUTHORIZING A FORM OF LOAN AGREEMENT AND AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$3,685,000 GENERAL OBLIGATION REFUNDING CAPITAL LOAN NOTES, SERIES 2010A, AND LEVYING A TAX TO PAY THE NOTES" and moved that it be adopted. Council Member \_\_\_\_\_ seconded the motion to adopt, and the roll being called thereon, the vote was as follows:

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYS: \_\_\_\_\_

Whereupon, the Mayor declared said Resolution duly adopted as follows:

RESOLUTION APPROVING AND AUTHORIZING A FORM OF  
LOAN AGREEMENT AND AUTHORIZING AND PROVIDING FOR  
THE ISSUANCE OF \$3,685,000 GENERAL OBLIGATION  
REFUNDING CAPITAL LOAN NOTES, SERIES 2010A, AND  
LEVYING A TAX TO PAY THE NOTES

WHEREAS, the Issuer is duly incorporated, organized and exists under and by  
virtue of the laws and Constitution of the State of Iowa; and

WHEREAS, the Issuer is in need of funds to pay costs of refunding outstanding  
general obligation indebtedness of the City, an essential corporate purpose, and it is  
deemed necessary and advisable that a form of Loan Agreement be approved and  
authorized and General Obligation Capital Loan Notes, Series 2010A, to the amount of  
\$3,685,000 be authorized for said purpose; and

WHEREAS, pursuant to notice published as required by Sections 384.24, 384.24A  
and 384.25 of said Code, this Council has held a public meeting and hearing upon the  
proposal to institute proceedings for the issuance of not to exceed \$4,000,000 General  
Obligation Refunding Capital Loan Notes, Series 2010A, and the Council is therefore  
now authorized to proceed with the issuance of \$3,685,000 of Capital Loan Notes;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF COUNCIL BLUFFS, STATE OF IOWA:

Section 1. Definitions. The following terms shall have the following meanings in  
this Resolution unless the text expressly or by necessary implication requires otherwise:

◆ "Authorized Denominations" shall mean \$5,000 or any integral  
multiple thereof.

- ◆ "Beneficial Owner" shall mean the person in whose name such Note is recorded as the beneficial owner of a Note by a Participant on the records of such Participant or such person's subrogee.
- ◆ "Cede & Co." shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Notes.
- ◆ "Continuing Disclosure Certificate" shall mean that certain Continuing Disclosure Certificate executed by the Issuer and dated the date of issuance and delivery of the Notes, as originally executed and as it may be amended from time to time in accordance with the terms thereof.
- ◆ "Depository Notes" shall mean the Notes as issued in the form of one global certificate for each maturity, registered in the Registration Books maintained by the Registrar in the name of DTC or its nominee.
- ◆ "DTC" shall mean The Depository Trust Company, New York, New York, a limited purpose trust company, or any successor book-entry securities depository appointed for the Notes.
- ◆ "Issuer" and "City" shall mean the City of Council Bluffs, State of Iowa.
- ◆ "Loan Agreement" shall mean a Loan Agreement between the Issuer and a lender or lenders in substantially the form attached to and approved by this Resolution.
- ◆ "Note Fund" shall mean the fund created in Section 4 of this Resolution.
- ◆ "Notes" shall mean \$3,685,000 General Obligation Refunding Capital Loan Notes, Series 2010A, authorized to be issued by this Resolution.
- ◆ "Participants" shall mean those broker-dealers, banks and other financial institutions for which DTC holds Notes as securities depository.
- ◆ "Paying Agent" shall mean Bankers Trust Company, or such successor as may be approved by Issuer as provided herein and who shall carry out the duties prescribed herein as Issuer's agent to provide for the payment of principal of and interest on the Notes as the same shall become due.

◆ "Project" shall mean refunding outstanding general obligation indebtedness of the City.

◆ "Project Fund" shall mean the fund into which a portion of the proceeds that will be used, together with interest earnings thereon, to pay the principal, interest and redemption premium, if any, on the Refunded Bonds.

◆ "Rebate Fund" shall mean the fund so defined in and established pursuant to the Tax Exemption Certificate.

◆ "Refunded Bonds" shall mean \$3,700,000 of the \$5,620,000 General Obligation Bonds, dated May 29, 2003.

◆ "Registrar" shall mean Bankers Trust Company of Des Moines, Iowa, or such successor as may be approved by Issuer as provided herein and who shall carry out the duties prescribed herein with respect to maintaining a register of the owners of the Notes. Unless otherwise specified, the Registrar shall also act as Transfer Agent for the Notes.

◆ "Representation Letter" shall mean the Blanket Issuer Letter of Representations executed and delivered by the Issuer to DTC on file with DTC.

◆ "Resolution" shall mean this resolution authorizing the Notes.

◆ "Tax Exemption Certificate" shall mean the Tax Exemption Certificate executed by the Finance Director and delivered at the time of issuance and delivery of the Notes.

◆ "Treasurer" shall mean the Finance Director or such other officer as shall succeed to the same duties and responsibilities with respect to the recording and payment of the Notes issued hereunder.

Section 2. The form of Loan Agreement in substantially the form attached to this Resolution is hereby approved and is authorized to be executed and issued on behalf of the Issuer by the Mayor and attested by the City Clerk.

### Section 3. Levy and Certification of Annual Tax; Other Funds to be Used.

(a) Levy of Annual Tax. That for the purpose of providing funds to pay the principal and interest of the Notes hereinafter authorized to be issued, there is hereby levied for each future year the following direct annual tax on all of the taxable property in the City of Council Bluffs, State of Iowa, to-wit:

AMOUNT	FISCAL YEAR (JULY 1 TO JUNE 30) YEAR OF COLLECTION
\$783,336	2010/2011
\$783,800	2011/2012
\$784,400	2012/2013
\$794,700	2013/2014
\$799,500	2014/2015

(NOTE: For example the levy to be made and certified against the taxable valuations of January 1, 2010, will be collected during the fiscal year commencing July 1, 2011).

(b) Resolution to be Filed With County Auditor. A certified copy of this Resolution shall be filed with the Auditor of Pottawattamie County, Iowa and the Auditor is hereby instructed in and for each of the years as provided, to levy and assess the tax hereby authorized in Section 3 of this Resolution, in like manner as other taxes are levied and assessed, and such taxes so levied in and for each of the years aforesaid be collected in like manner as other taxes of the City are collected, and when collected be used for the purpose of paying principal and interest on said Notes issued in anticipation of the tax, and for no other purpose whatsoever.

(c) Additional City Funds Available. Principal and interest coming due at anytime when the proceeds of said tax on hand shall be insufficient to pay the same shall be promptly paid when due from current funds of the City available for that purpose and reimbursement shall be made from such special fund in the amounts thus advanced.

Section 4. Note Fund. Said tax shall be assessed and collected each year at the same time and in the same manner as, and in addition to, all other taxes in and for the City, and when collected they shall be converted into a special fund within the Debt Service Fund to be known as the "GENERAL OBLIGATION CAPITAL LOAN NOTE FUND NO. 1" (the "Note Fund"), which is hereby pledged for and shall be used only for the payment of the principal of and interest on the Notes hereinafter authorized to be issued; and also there shall be apportioned to said fund its proportion of taxes received by the City from property that is centrally assessed by the State of Iowa.

Section 5. Application of Note Proceeds. Proceeds of the Notes other than accrued interest except as may be provided below shall be credited to the Project Fund and expended therefrom for the purposes of the Project. Proceeds invested shall mature

before the date on which the moneys are required for payment of principal and interest on the Refunded Bonds. Accrued interest, if any, shall be deposited in the Note Fund.

Section 6. Investments of Note Fund Proceeds. All moneys held in the Note Fund and the Project Fund, shall be invested in investments permitted by Chapter 12B, Code of Iowa, 2009 (formerly Chapter 452, Code of Iowa, as amended) or deposited in financial institutions which are members of the Federal Deposit Insurance Corporation and the deposits in which are insured thereby and all such deposits exceeding the maximum amount insured from time to time by FDIC or its equivalent successor in any one financial institution shall be continuously secured in compliance with the State Sinking Fund provided under Chapter 12C of the Code of Iowa, 2009, as amended or otherwise by a valid pledge of direct obligations of the United States Government having an equivalent market value. All such interim investments shall mature before the date on which the moneys are required for payment of principal of or interest on the Notes as herein provided.

Section 7. Note Details, Execution and Redemption.

(a) Note Details. General Obligation Refunding Capital Loan Notes, Series 2010A, of the City in the total amount of \$3,685,000, shall be issued to evidence the obligations of the Issuer under the Loan Agreement pursuant to the provisions of Sections 384.24, 384.24A, and 384.25 of the City Code of Iowa, as amended, for the aforesaid purpose. The Notes shall be issued in one or more series and shall be on a parity and secured equally and ratably from the sources provided in Section 3 of this Resolution. The Notes shall be designated "\$3,685,000 GENERAL OBLIGATION REFUNDING CAPITAL LOAN NOTES, SERIES 2010A", be dated March 18, 2010, and bear interest from the date thereof, until payment thereof, at the office of the Paying Agent, said interest payable on December 1, 2010, and semiannually thereafter on the 1st day of June and December in each year until maturity at the rates hereinafter provided.

The Notes shall be executed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk, and impressed or printed with the seal of the City and shall be fully registered as to both principal and interest as provided in this Resolution; principal, interest and premium, if any, shall be payable at the office of the Paying Agent by mailing of a check to the registered owner of the Note. The Notes shall be in the denomination of \$5,000 or multiples thereof and shall mature and bear interest as follows:

Principal Amount	Interest Rate	Maturity June 1st
\$690,000	2.00%	2011
\$720,000	2.00%	2012
\$735,000	2.00%	2013
\$760,000	2.00%	2014
\$780,000	2.50%	2015

(b) Redemption. The Notes are not subject to redemption prior to maturity.

Section 8. Issuance of Notes in Book-Entry Form; Replacement Notes.

(a) Notwithstanding the other provisions of this Resolution regarding registration, ownership, transfer, payment and exchange of the Notes, unless the Issuer determines to permit the exchange of Depository Notes for Notes in the Authorized Denominations, the Notes shall be issued as Depository Notes in denominations of the entire principal amount of each maturity of Notes (or, if a portion of said principal amount is prepaid, said principal amount less the prepaid amount); and such Depository Notes shall be registered in the name of Cede & Co., as nominee of DTC. Payment of semi-annual interest for any Depository Note shall be made by wire transfer or New York Clearing House or equivalent next day funds to the account of Cede & Co. on the interest payment date for the Notes at the address indicated in or pursuant to the Representation Letter.

(b) With respect to Depository Notes, neither the Issuer nor the Paying Agent shall have any responsibility or obligation to any Participant or to any Beneficial Owner. Without limiting the immediately preceding sentence, neither the Issuer nor the Paying Agent shall have any responsibility or obligation with respect to (i) the accuracy of the records of DTC or its nominee or of any Participant with respect to any ownership interest in the Notes, (ii) the delivery to any Participant, any Beneficial Owner or any other person, other than DTC or its nominee, of any notice with respect to the Notes, (iii) the payment to any Participant, any Beneficial Owner or any other person, other than DTC or its nominee, of any amount with respect to the principal of, premium, if any, or interest on the Notes, or (iv) the failure of DTC to provide any information or notification on behalf of any Participant or Beneficial Owner.

The Issuer and the Paying Agent may treat DTC or its nominee as, and deem DTC or its nominee to be, the absolute owner of each Note for the purpose of payment of the principal of, premium, if any, and interest on such Note, for the purpose of all other matters with respect to such Note, for the purpose of registering transfers with respect to

such Notes, and for all other purposes whatsoever (except for the giving of certain Noteholder consents, in accordance with the practices and procedures of DTC as may be applicable thereto). The Paying Agent shall pay all principal of, premium, if any, and interest on the Notes only to or upon the order of the Noteholders as shown on the Registration Books, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to the principal of, premium, if any, and interest on the Notes to the extent so paid. Notwithstanding the provisions of this Resolution to the contrary (including without limitation those provisions relating to the surrender of Notes, registration thereof, and issuance in Authorized Denominations), as long as the Notes are Depository Notes, full effect shall be given to the Representation Letter and the procedures and practices of DTC thereunder, and the Paying Agent shall comply therewith.

(c) Upon (i) a determination by the Issuer that DTC is no longer able to carry out its functions or is otherwise determined unsatisfactory, or (ii) a determination by DTC that the Notes are no longer eligible for its depository services or (iii) a determination by the Paying Agent that DTC has resigned or discontinued its services for the Notes, if such substitution is authorized by law, the Issuer shall (A) designate a satisfactory substitute depository as set forth below or, if a satisfactory substitute is not found, (B) provide for the exchange of Depository Notes for replacement Notes in Authorized Denominations.

(d) To the extent authorized by law, if the Issuer determines to provide for the exchange of Depository Notes for Notes in Authorized Denominations, the Issuer shall so notify the Paying Agent and shall provide the Registrar with a supply of executed unauthenticated Notes to be so exchanged. The Registrar shall thereupon notify the owners of the Notes and provide for such exchange, and to the extent that the Beneficial Owners are designated as the transferee by the owners, the Notes will be delivered in appropriate form, content and Authorized Denominations to the Beneficial Owners, as their interests appear.

(e) Any substitute depository shall be designated in writing by the Issuer to the Paying Agent. Any such substitute depository shall be a qualified and registered "clearing agency" as provided in Section 17A of the Securities Exchange Act of 1934, as amended. The substitute depository shall provide for (i) immobilization of the Depository Notes, (ii) registration and transfer of interests in Depository Notes by book entries made on records of the depository or its nominee and (iii) payment of principal of, premium, if any, and interest on the Notes in accordance with and as such interests may appear with respect to such book entries.

Section 9. Registration of Notes; Appointment of Registrar; Transfer; Ownership; Delivery; and Cancellation.

(a) Registration. The ownership of Notes may be transferred only by the making of an entry upon the books kept for the registration and transfer of ownership of the Notes, and in no other way. Bankers Trust Company is hereby appointed as Registrar under the terms of this Resolution and under the provisions of a separate agreement with the Issuer filed herewith which is made a part hereof by this reference. Registrar shall maintain the books of the Issuer for the registration of ownership of the Notes for the payment of principal of and interest on the Notes as provided in this Resolution. All Notes shall be negotiable as provided in Article 8 of the Uniform Commercial Code subject to the provisions for registration and transfer contained in the Notes and in this Resolution.

(b) Transfer. The ownership of any Note may be transferred only upon the Registration Books kept for the registration and transfer of Notes and only upon surrender thereof at the office of the Registrar together with an assignment duly executed by the holder or his duly authorized attorney in fact in such form as shall be satisfactory to the Registrar, along with the address and social security number or federal employer identification number of such transferee (or, if registration is to be made in the name of multiple individuals, of all such transferees). In the event that the address of the registered owner of a Note (other than a registered owner which is the nominee of the broker or dealer in question) is that of a broker or dealer, there must be disclosed on the Registration Books the information pertaining to the registered owner required above. Upon the transfer of any such Note, a new fully registered Note, of any denomination or denominations permitted by this Resolution in aggregate principal amount equal to the unmatured and unredeemed principal amount of such transferred fully registered Note, and bearing interest at the same rate and maturing on the same date or dates shall be delivered by the Registrar.

(c) Registration of Transferred Notes. In all cases of the transfer of the Notes, the Registrar shall register, at the earliest practicable time, on the Registration Books, the Notes, in accordance with the provisions of this Resolution.

(d) Ownership. As to any Note, the person in whose name the ownership of the same shall be registered on the Registration Books of the Registrar shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any such Notes and the premium, if any, and interest thereon shall be made only to or upon the order of the registered owner

thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

(e) Cancellation. All Notes which have been redeemed shall not be reissued but shall be cancelled by the Registrar. All Notes which are cancelled by the Registrar shall be destroyed and a certificate of the destruction thereof shall be furnished promptly to the Issuer; provided that if the Issuer shall so direct, the Registrar shall forward the cancelled Notes to the Issuer.

(f) Non-Presentation of Notes. In the event any payment check representing payment of principal of or interest on the Notes is returned to the Paying Agent or if any Note is not presented for payment of principal at the maturity or redemption date, if funds sufficient to pay such principal of or interest on Notes shall have been made available to the Paying Agent for the benefit of the owner thereof, all liability of the Issuer to the owner thereof for such interest or payment of such Notes shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the owner of such Notes who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Resolution or on, or with respect to, such interest or Notes. The Paying Agent's obligation to hold such funds shall continue for a period equal to two years and six months following the date on which such interest or principal became due, whether at maturity, or at the date fixed for redemption thereof, or otherwise, at which time the Paying Agent, shall surrender any remaining funds so held to the Issuer, whereupon any claim under this Resolution by the Owners of such interest or Notes of whatever nature shall be made upon the Issuer.

(g) Registration and Transfer Fees. The Registrar may furnish to each owner, at the Issuer's expense, one Note for each annual maturity. The Registrar shall furnish additional Notes in lesser denominations (but not less than the minimum denomination) to an owner who so requests.

Section 10. Reissuance of Mutilated, Destroyed, Stolen or Lost Notes. In case any outstanding Note shall become mutilated or be destroyed, stolen or lost, the Issuer shall at the request of Registrar authenticate and deliver a new Note of like tenor and amount as the Note so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Note to Registrar, upon surrender of such mutilated Note, or in lieu of and substitution for the Note destroyed, stolen or lost, upon filing with the Registrar evidence satisfactory to the Registrar and Issuer that such Note has been destroyed, stolen or lost and proof of ownership thereof, and upon furnishing the Registrar and Issuer with satisfactory indemnity and complying with such other reasonable regulations as the Issuer

or its agent may prescribe and paying such expenses as the Issuer may incur in connection therewith.

Section 11. Record Date. Payments of principal and interest, otherwise than upon full redemption, made in respect of any Note, shall be made to the registered holder thereof or to their designated Agent as the same appear on the books of the Registrar on the 15th day preceding the payment date. All such payments shall fully discharge the obligations of the Issuer in respect of such Notes to the extent of the payments so made. Payment of principal shall only be made upon surrender of the Note to the Paying Agent.

Section 12. Execution, Authentication and Delivery of the Notes. The Mayor and Clerk shall execute and deliver the Notes to the Registrar, who shall authenticate the Notes and deliver the same to or upon order of the Purchaser. No Note shall be valid or obligatory for any purpose or shall be entitled to any right or benefit hereunder unless the Registrar shall duly endorse and execute on such Note a Certificate of Authentication substantially in the form of the Certificate herein set forth. Such Certificate upon any Note executed on behalf of the Issuer shall be conclusive evidence that the Note so authenticated has been duly issued under this Resolution and that the holder thereof is entitled to the benefits of this Resolution.

No Notes shall be authenticated and delivered by the Registrar unless and until there shall have been provided the following:

1. A certified copy of the resolution of Issuer approving the execution of a Loan Agreement and a copy of the Loan Agreement;
2. A written order of Issuer signed by the Finance Director directing the authentication and delivery of the Notes to or upon the order of the Purchaser upon payment of the purchase price as set forth therein;
3. The approving opinion of Ahlers & Cooney, P.C., Bond Counsel, concerning the validity and legality of all the Notes proposed to be issued.

Section 13. Right to Name Substitute Paying Agent or Registrar. Issuer reserves the right to name a substitute, successor Registrar or Paying Agent upon giving prompt written notice to each registered noteholder.

Section 14. Form of Note. Notes shall be printed in substantial compliance with standards proposed by the American Standards Institute substantially in the form as follows:

(6)	(6)		
(7)	(8)		
(1)			
(2)	(3)	(4)	(5)
(9)			
(9a)			
(10) (Continued on the back of this Note)			
(11)(12)(13)	(14)	(15)	

FIGURE 1  
(Front)

<p>(10) (Continued)</p>		<p>(16)</p>
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FIGURE 2  
(Back)

The text of the Notes to be located thereon at the item numbers shown shall be as follows:

Item 1, figure 1= "STATE OF IOWA"  
"COUNTY OF POTTAWATTAMIE"  
"CITY OF COUNCIL BLUFFS"  
"GENERAL OBLIGATION REFUNDING CAPITAL  
LOAN NOTE"  
"SERIES 2010A"  
"ESSENTIAL CORPORATE PURPOSE"

Item 2, figure 1= Rate: \_\_\_\_\_  
Item 3, figure 1= Maturity: \_\_\_\_\_  
Item 4, figure 1= Note Date: March 18, 2010  
Item 5, figure 1= CUSIP No.: \_\_\_\_\_  
Item 6, figure 1= "Registered"  
Item 7, figure 1= Certificate No. \_\_\_\_\_  
Item 8, figure 1= Principal Amount: \$ \_\_\_\_\_

Item 9, figure 1= The City of Council Bluffs, State of Iowa, a municipal corporation organized and existing under and by virtue of the Constitution and laws of the State of Iowa (the "Issuer"), for value received, promises to pay from the source and as hereinafter provided, on the maturity date indicated above, to

Item 9A, figure 1 = (Registration panel to be completed by Registrar or Printer with name of Registered Owner).

Item 10, figure 1 = or registered assigns, the principal sum of (principal amount written out) THOUSAND DOLLARS in lawful money of the United States of America, on the maturity date shown above, only upon presentation and surrender hereof at the office of Bankers Trust Company, Des Moines, Iowa, Paying Agent of this issue, or its successor, with interest on said sum from the date hereof until paid at the rate per annum specified above, payable on December 1, 2010, and semiannually thereafter on the 1st day of June and December in each year.

Interest and principal shall be paid to the registered holder of the Note as shown on the records of ownership maintained by the Registrar as of the 15th day preceding such interest payment date. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

This Note is issued pursuant to the provisions of Sections 384.24, 384.24A, and 384.25 of the City Code of Iowa, for the purpose of paying costs of refunding outstanding

general obligation indebtedness of the City, and in order to evidence the obligations of the Issuer under a certain Loan Agreement dated February 22, 2010, in conformity to a Resolution of the Council of the Issuer duly passed and approved. For a complete statement of the revenues and funds from which and the conditions under which this Note is payable, a statement of the conditions under which additional Notes of equal standing may be issued, and the general covenants and provisions pursuant to which this Note is issued, reference is made to the above described Loan Agreement and Resolution.

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a limited purpose trust company ("DTC"), to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other Issuer as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Ownership of this Note may be transferred only by transfer upon the books kept for such purpose by Bankers Trust Company, the Registrar. Such transfer on the books shall occur only upon presentation and surrender of this Note at the office of the Registrar as designated below, together with an assignment duly executed by the owner hereof or his duly authorized attorney in the form as shall be satisfactory to the Registrar. Issuer reserves the right to substitute the Registrar and Paying Agent but shall, however, promptly give notice to registered noteholders of such change. All Notes shall be negotiable as provided in Article 8 of the Uniform Commercial Code and subject to the provisions for registration and transfer contained in the Note Resolution.

And it is hereby represented and certified that all acts, conditions and things requisite, according to the laws and Constitution of the State of Iowa, to exist, to be had, to be done, or to be performed precedent to the lawful issue of this Note, have been existent, had, done and performed as required by law; that provision has been made for the levy of a sufficient continuing annual tax on all the taxable property within the territory of the Issuer for the payment of the principal and interest of this Note as the same will respectively become due; that the faith, credit, revenues and resources and all the real and personal property of the Issuer are irrevocably pledged for the prompt payment hereof, both principal and interest, and the total indebtedness of the Issuer including this Note, does not exceed the constitutional or statutory limitations.

IN TESTIMONY WHEREOF, the Issuer by its Council, has caused this Note to be signed by the manual signature of its Mayor and attested by the manual signature of its City Clerk, with the seal of said City impressed hereon, and to be authenticated by the

manual signature of an authorized representative of the Registrar, Bankers Trust Company, Des Moines, Iowa.

Item 11, figure 1 = Date of authentication:

Item 12, figure 1 = This is one of the Notes described in the within mentioned Resolution, as registered by Bankers Trust Company

BANKERS TRUST COMPANY, Registrar  
Des Moines, Iowa 50309

By: \_\_\_\_\_  
Authorized Signature

Item 13, figure 1 = Registrar and Transfer Agent: Bankers Trust Company  
Paying Agent: Bankers Trust Company

SEE REVERSE FOR CERTAIN DEFINITIONS

Item 14, figure 1 = (Seal)

Item 15, figure 1 = (Signature Block)

CITY OF COUNCIL BLUFFS, STATE OF IOWA

By: \_\_\_\_\_ (manual signature)  
Mayor

ATTEST:

By: \_\_\_\_\_ (manual signature)  
City Clerk

Item 16, figure 1 = (Assignment Block)  
(Information Required for Registration)

## ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ (Social Security or Tax Identification No. \_\_\_\_\_) this Note and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney in fact to transfer this Note on the books kept for registration of the within Note, with full power of substitution in the premises.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
(Person(s) executing this Assignment  
sign(s) here)

SIGNATURE )  
GUARANTEED )

## IMPORTANT - READ CAREFULLY

The signature(s) to this Power must correspond with the name(s) as written upon the face of the certificate(s) or Note(s) in every particular without alteration or enlargement or any change whatever. Signature guarantee must be provided in accordance with the prevailing standards and procedures of the Registrar and Transfer Agent. Such standards and procedures may require signature to be guaranteed by certain eligible guarantor institutions that participate in a recognized signature guarantee program.

## INFORMATION REQUIRED FOR REGISTRATION OF TRANSFER

Name of Transferee(s) \_\_\_\_\_  
Address of Transferee(s) \_\_\_\_\_  
Social Security or Tax Identification  
Number of Transferee(s) \_\_\_\_\_  
Transferee is a(n):  
Individual\* \_\_\_\_\_ Corporation \_\_\_\_\_  
Partnership \_\_\_\_\_ Trust \_\_\_\_\_

\*If the Note is to be registered in the names of multiple individual owners, the names of all such owners and one address and social security number must be provided.

The following abbreviations, when used in the inscription on the face of this Note, shall be construed as though written out in full according to applicable laws or regulations:

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with rights of survivorship and not as tenants in common

IA UNIF TRANS MIN ACT - ..... Custodian .....

(Cust) (Minor)

Under Iowa Uniform Transfers to Minors Act.....  
(State)

ADDITIONAL ABBREVIATIONS MAY BE ALSO  
USED THOUGH NOT IN THE ABOVE LIST

Section 15. Contract Between Issuer and Purchaser. This Resolution shall constitute a contract between said City and the purchaser of the Notes.

Section 16. Non-Arbitrage Covenants. The Issuer reasonably expects and covenants that no use will be made of the proceeds from the issuance and sale of the Notes issued hereunder which will cause any of the Notes to be classified as arbitrage notes within the meaning of Sections 148(a) and (b) of the Internal Revenue Code of the United States, as amended, and that throughout the term of the Notes it will comply with the requirements of statutes and regulations issued thereunder.

To the best knowledge and belief of the Issuer, there are no facts or circumstances that would materially change the foregoing statements or the conclusion that it is not expected that the proceeds of the Notes will be used in a manner that would cause the Notes to be arbitrage notes. Without limiting the generality of the foregoing, the Issuer hereby agrees to comply with the provisions of the Tax Exemption Certificate and the provisions of the Tax Exemption Certificate are hereby incorporated by reference as part of this Resolution. The Finance Director is hereby directed to make and insert all calculations and determinations necessary to complete the Tax Exemption Certificate in all respects and to execute and deliver the Tax Exemption Certificate at issuance of the Notes to certify as to the reasonable expectations and covenants of the Issuer at that date.

Section 17. Severability Clause. If any section, paragraph, clause or provision of this Resolution be held invalid, such invalidity shall not affect any of the remaining provisions hereof, and this Resolution shall become effective immediately upon its passage and approval.

Section 18. Continuing Disclosure. The Issuer hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate, and the provisions of the Continuing Disclosure Certificate are hereby incorporated by reference as part of this Resolution and made a part hereof. Notwithstanding any other provision of this Resolution, failure of the Issuer to comply with the Continuing Disclosure Certificate shall not be considered an event of default under this Resolution; however, any holder of the Notes or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Issuer to comply with its obligations under the Continuing Disclosure Certificate. For purposes of this Section, "Beneficial Owner" means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Notes (including persons holding Notes through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Notes for federal income tax purposes.

Section 19. Additional Covenants, Representations and Warranties of the Issuer. The Issuer certifies and covenants with the purchasers and holders of the Notes from time to time outstanding that the Issuer through its officers, (a) will make such further specific covenants, representations and assurances as may be necessary or advisable; (b) comply with all representations, covenants and assurances contained in the Tax Exemption Certificate, which Tax Exemption Certificate shall constitute a part of the contract between the Issuer and the owners of the Notes; (c) consult with bond counsel (as defined in the Tax Exemption Certificate); (d) pay to the United States, as necessary, such sums of money representing required rebates of excess arbitrage profits relating to the Notes; (e) file such forms, statements and supporting documents as may be required and in a timely manner; and (f) if deemed necessary or advisable by its officers, to employ and pay fiscal agents, financial advisors, attorneys and other persons to assist the Issuer in such compliance.

Section 20. Amendment of Resolution to Maintain Tax Exemption. This Resolution may be amended without the consent of any owner of the Notes if, in the opinion of bond counsel, such amendment is necessary to maintain tax exemption with respect to the Notes under applicable Federal law or regulations.

Section 21. Repeal of Conflicting Resolutions or Ordinances. All ordinances and resolutions and parts of ordinances and resolutions in conflict herewith are hereby repealed.

PASSED AND APPROVED this 22nd day of February, 2010.

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Mayor

ATTEST:

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City Clerk

CERTIFICATE

STATE OF IOWA )  
 ) SS  
COUNTY OF POTTAWATTAMIE )

I, the undersigned City Clerk of the City of Council Bluffs, State of Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of the City showing proceedings of the City Council, and the same is a true and complete copy of the action taken by the Council with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely served on each member of the Council and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Council (a copy of the face sheet of the agenda being attached hereto) pursuant to the local rules of the Council and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required by law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective City offices as indicated therein, that no Council vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the City hereto affixed this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

City Clerk, City of Council Bluffs, State of Iowa

(SEAL)

## Council Communication

Department: Parks, Recreation and Public Property	Ordinance No. _____  Resolution No. <u>10-67</u>	Date: <u>February 22, 2010</u>												
Case/Project No.														
Applicant: Larry N. Foster														
<b>Subject/Title</b>														
For City Council consideration is a resolution awarding a contract in the amount of _____ to for the Tree Removal – River’s Edge Park Project.														
<b>Background/Discussion</b>														
<p>One of the City’s design objectives for River’s Edge Park was to achieve a balance between preserving the ecologically valuable elements of the site, its riparian woodlands, wetland and shorelines while meeting the citizen’s and visitor’s need for riverfront access and park amenities. The City’s plan has achieved this balance and, although tree removals are required, the scale of removals is much less than in prior plans.</p> <p>As part of the permitting process, the City has filed a Purpose &amp; Need, Alternatives Analysis, and Mitigation Plan for River’s Edge Park with the U.S. Army Corps of Engineers. This document outlines the trees to be removed and a plan for tree replacement. The trees to be removed are located within the spaces to be occupied by the Great Lawn, River’s Edge and areas needed for road right-of-way and parking. In accordance with this document, plans specifications, bid documents and contracts have been prepared for the orderly removal of these trees and on February 8, 2010, the Council approved these documents, authorized the City Clerk to advertise for bids and set the bid date as February 19, 2010 at 10:00 a.m..</p> <p>The following are the companies and their bid for removal of the trees in accordance with the bid documents:</p> <table style="width: 100%;"><thead><tr><th style="text-align: left;"><u>Company</u></th><th style="text-align: left;"><u>Bid</u></th></tr></thead><tbody><tr><td> </td><td> </td></tr><tr><td> </td><td> </td></tr><tr><td> </td><td> </td></tr><tr><td> </td><td> </td></tr><tr><td> </td><td> </td></tr></tbody></table> <p>Funds for tree removal are included in the cost for Phase 1 Development of River’s Edge Park. Funding for Phase 1 will be provided through the partnership established between the City and the Iowa West Foundation.</p>			<u>Company</u>	<u>Bid</u>										
<u>Company</u>	<u>Bid</u>													
<b>Recommendation</b>														
Recommendation that the City Council adopt the resolution awarding _____ the contract for Tree Removal - the River’s Edge Park Project in the amount of _____														

\_\_\_\_\_  
Larry N. Foster

\_\_\_\_\_  
Thomas P. Hanafan

RESOLUTION NO. 10-67

RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO  
AN AGREEMENT AND AWARD BID TO \_\_\_\_\_ FOR THE TREE REMOVAL –  
RIVER’S EDGE PARK PROJECT IN THE AMOUNT OF \_\_\_\_\_

WHEREAS, the City of Council Bluffs desires to remove trees for the River’s Edge Park  
Project; and

WHEREAS, on February 8, 2010, Council approved the plans, specifications and form of  
contract for the Tree Removal – River’s Edge Park project; and

WHEREAS, on February 19, 2010, bids were received; and

WHEREAS, \_\_\_\_\_ has submitted a low bid in the total amount of  
\_\_\_\_\_ ; and

WHEREAS, the City Council deems approval of said agreement to be in the best interest of  
the City of Council Bluffs.

NOW, THEREFORE BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

That the Mayor and City Clerk are hereby authorized, empowered, and directed to execute a contract  
with \_\_\_\_\_ for the Tree Removal – River’s Edge Park Project.

ADOPTED  
AND  
APPROVED February 22, 2010

\_\_\_\_\_  
Thomas P. Hanafan Mayor

Attest:

\_\_\_\_\_  
Marcia L. Worden City Clerk

**Council Communication**  
**February 22, 2010 City Council Meeting**

Department: Community Development	Ordinance No.: N/A  Resolution No.: <u>10-68</u>	First Reading: N/A Second Reading: N/A Third Reading: N/A Public Hearing: N/A
Case/Project No.: N/A		
<b>Subject/Title</b>		
Execute Consultant Contract to Carryout the 2009 EPA Brownfields Cleanup Grant		
<b>Location</b>		
1001 South 6 <sup>th</sup> Street		
<b>Background/Discussion</b>		
<u>Background</u> The U.S. Environmental Protection Agency (EPA) has established a Brownfields Cleanup Grant Program. This Program provides local communities with funds to perform cleanup activities related to brownfields sites. In the past the City was successful in receiving \$800,000 in EPA Brownfields Assessment Grant funds to inventory, assess, and characterize environmental contaminants within the City, particularly in the South Main Urban Renewal area. Through a Request for Qualifications process, Howard R. Green Company, a consultant, was hired to carryout the activities for the EPA Brownfields Assessment Grants. To date, numerous Phase I Environmental Site Assessments have been completed on properties in the South Main Urban Renewal area, including 1001 South 6 <sup>th</sup> Street.  Due to the successful use of the EPA Brownfields Assessment Grant funds, the property at 1001 South 6 <sup>th</sup> Street was identified as an eligible site for EPA Brownfields Cleanup funds. In October of 2008, an application for an EPA Brownfields Cleanup Grant was prepared and submitted to the EPA. The application requested \$200,000 to remediate the contaminants at 1001 South 6 <sup>th</sup> Street.		
<u>Discussion</u> On May 7, 2009, the City was awarded a \$200,000 EPA Brownfields Cleanup Grant for the 1001 South 6 <sup>th</sup> Street. Matching funds in the amount of \$40,000 are required and will be provided in part by PCDC. Howard R. Green Company has submitted a contract for services to assist the City in preparing cooperative agreements and oversight, community involvement, and in particular, the site-specific cleanup activities as detailed in the City's approved EPA Work Plan for the grant. The total amount will not exceed \$230,250.		
<b>Staff Recommendation</b>		
The Community Development Department recommends City Council adopt a resolution authorizing the Mayor to execute a contract with Howard R. Green Company for consultant services for the 2009 EPA Brownfields Cleanup Grant for 1001 South 6 <sup>th</sup> Street.		
<b>Attachments</b>		
Howard R. Green Company Contract for Services.		

Submitted by: Tina Hochwender, Project Coordinator, Community Development Department  
Approved by: Donald D. Gross, Director, Community Development Department

HOWARD R. GREEN COMPANY  
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_ February \_\_\_\_, 2010 by and between, the City of Council Bluffs, the CLIENT, and HOWARD R. GREEN COMPANY (hereafter "HR Green"), for professional services concerning: Implementation of the EPA Brownfields Hazardous Substance Cleanup grant for the former industrial use site at 1001 South 5<sup>th</sup> Street in Council Bluffs, Iowa. (Describe the Project).

HR Green Project Number 728500J03

The CLIENT agrees to employ HR Green to perform the following services: Implement the EPA Brownfields Hazardous Substance Cleanup grant for the former industrial use site at 1001 South 6<sup>th</sup> Street in accordance with the attached Scope of Services (Exhibit A) and Project Schedule (Exhibit B).

\_\_\_\_\_(Describe Services).

In consideration for these services, the CLIENT AGREES to pay HR Green on the following basis: (Indicate Payment Method)

[ ] Lump sum in the amount of \_\_\_\_\_

[X] Per current Rate Schedule (Exhibit C) with an estimated fee of Two Hundred Thirty Thousand Two Hundred Fifty and No/100 Dollars (\$230,250.00)

{ } Other as stated here: \_\_\_\_\_

The Schedule of Fees and Conditions of **HOWARD R. GREEN COMPANY** (attached hereto) are incorporated into this **AGREEMENT** and made a part of it.

Client:

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**HOWARD R. GREEN COMPANY**

Signature: 

Printed Name: Mike Fisher

Title: Vice President

Date: January 27, 2010

**SCHEDULE OF FEES AND CONDITIONS  
HOWARD R. GREEN COMPANY**

**A. FEES AND PAYMENT**

1. The fee for services will be based on Howard R. Green Company's (hereafter "HR Green") standard hourly rates current at the time the work is done. These standard hourly rates are subject to change upon 30 days' written notice. Non-salary expenses directly attributable to the project such as: (1) living and traveling expenses of employees when away from the home office on business connected with the project; (2) identifiable communication expenses; (3) identifiable reproduction costs applicable to the work; and (4) outside services will be charged in accordance with the rates current at the time the work is done.
2. Payment shall be due within thirty (30) days after date of monthly invoice describing the work performed and expenses incurred during the preceding month.
3. CLIENT agrees that timely payment is a material term of this Agreement and that failure to make timely payment as agreed constitutes a breach hereof. In the event payment for services rendered has not been made within thirty (30) days from the date of invoice, HR Green may, after giving seven (7) days written notice to CLIENT and without penalty or liability of any nature, and without waiving any claim against CLIENT, suspend all work on all authorized services as set forth herein. Upon receipt of payment in full for services rendered, plus interest charges, HR Green will continue with all services not inconsistent with Article C.4 herein. Payment of all compensation due HR Green pursuant to this Agreement shall be a condition precedent to CLIENT using any of HR Green's professional services work products furnished under this Agreement.
4. In order to defray carrying charges resulting from delayed payments, simple interest at the rate of eighteen percent (18%) per annum (but not exceeding the maximum rate allowed by law) will be added to the unpaid balance of each invoice. The interest period shall commence thirty (30) days after date of original invoice and shall terminate upon date of payment. Payments will be first credited to interest and then to principal. No interest charge will be added during the initial thirty (30) day period following date of invoice.

**B. COMMENCEMENT OF WORK.** The work will be commenced immediately upon receipt of this signed Agreement. If after commencement of work the project is delayed for any reason beyond the control of HR Green for more than sixty (60) days, the terms and conditions contained herein are subject to revision. Subsequent modifications shall be in writing and signed by the parties to this Agreement.

**C. MISCELLANEOUS PROVISIONS**

1. **BOOKS OF ACCOUNT.** HR Green will maintain books and accounts of payroll costs, travel, subsistence, field, and incidental expenses. Said books and accounts will be available at all reasonable times for examination by CLIENT at the corporate office of HR Green.
2. **INSURANCE/INDEMNIFICATION/RISK ALLOCATION**
  - (a) HR Green will maintain insurance for claims under the Worker's Compensation Laws, and from General Liability and Automobile claims for bodily injury, death, or property damage arising from the negligent performance by HR Green's employees of the functions and services required under this Agreement.
  - (b) HR Green is skilled in the professional calling necessary to the services and duties proposed to be performed, and that it shall perform such services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals of HR Green's same locality, and to that end HR Green agrees to purchase insurance for HR Green, its officers, and employees from and against any and all liability, claims, suits, loss, damages, costs, and expenses arising out of or resulting from any negligent acts, errors, or omissions of HR Green, its officers and employees, in the performance of their services and duties hereunder, but not from the negligence or willful misconduct of CLIENT, its officers, and employees. Notwithstanding the existence of professional liability insurance, the total aggregate of HR Green's, its employees, officers, directors, agents, or consultants, liability to all parties related to this Agreement shall not exceed \$50,000.00, or the amount of HR Green's fee, whichever is less.
  - (c) CLIENT hereby understands and agrees that HR Green has not created nor contributed to the creation or existence of any or all types of hazardous or toxic wastes, materials, chemical compounds, or substances, or any other type of environmental hazard or pollution, whether latent or patent, at CLIENT's premises, or in connection with or related to this project with respect to which HR Green has been retained to provide professional engineering services. The compensation to be paid HR Green for said professional engineering services is in no way commensurate with, and has not been calculated with reference to, the potential risk of injury or loss which may be caused by the exposure of persons or property to such substances or conditions. Therefore, to the fullest extent permitted by law, CLIENT agrees to defend, indemnify, and hold HR Green, its officers, directors, employees, and consultants, harmless from and against any and all claims, damages, and expenses, whether direct, indirect, or consequential, including, but not limited to, attorney fees and Court costs, arising out of, or resulting from the discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acid, alkalis, toxic chemicals, liquids gases, or any other materials, irritants, contaminants, or pollutants in or into the atmosphere, or on, onto, upon, in, or into the surface or subsurface of soil, water, or watercourses, objects, or any tangible or intangible matter, whether sudden or not.
  - (d) Nothing contained within this Agreement shall be construed or interpreted as requiring HR Green to assume the status of a generator, storer, transporter, treater, or disposal facility as those terms appear within the Resource Conservation and Recovery Act, 42 U.S.C.A., §6901 et seq., as amended, or within any State statute governing the generation, treatment, storage, and disposal of waste.
  - (e) Notwithstanding any provisions in this Agreement to the contrary, if this project involves construction, as that term is generally understood, and HR Green does not provide engineering services during construction, including, but not limited to, observation, site visits, shop drawing review, and design clarifications, CLIENT agrees to defend, indemnify, and hold HR Green, its consultants, agents, and employees harmless from any and all liability arising out of this project or Agreement.
  - (f) HR Green shall not be liable for damages arising out of or resulting from the actions or inaction of governmental agencies, including, but not limited to, permit processing, environmental impact reports, dedications, general plans and amendments thereto, zoning matters, annexations or consolidations, use or conditional use permits, and building permits. CLIENT agrees to defend, indemnify, and hold HR Green, its consultants, agents, and employees harmless from any and all liability, other than that caused by the negligent acts, errors, or omissions of HR Green, arising out of or resulting from the same.

## 3. DOCUMENTS

- (a) The CLIENT acknowledges HR Green's construction documents as instruments of professional service. Nevertheless, the plans and specifications prepared under this Agreement shall become the property of the CLIENT upon completion of the work and payment in full of all monies due to HR Green. The CLIENT shall not reuse or make any modifications to the plans and specifications without the prior written authorization of HR Green. The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold HR Green harmless from any claim, liability or cost (including reasonable attorneys' fees and defense costs) arising or allegedly arising out of any unauthorized reuse or modifications of the construction documents by the CLIENT or any person or entity that acquires or obtains the plans and specifications from or through the CLIENT without the written authorization of HR Green.
  - (b) All computer programs, work product, inventions, patents, copyrights, software, and other like data developed during the course of the project, are and shall remain the sole property of HR Green.
  - (c) HR Green's liability to CLIENT for any computer programs, software products, or related data furnished hereunder is limited solely to the correction of residual errors, minor maintenance, or update(s) as agreed. HR Green makes no warranties of any kind, including any implied warranty of merchantability or of fitness for any particular purpose, or against infringement, with respect to computer programs, software products, related data, technical information, or technical assistance provided by HR Green under this Agreement. In no event shall HR Green, its officers, agents, or employees be liable under or in connection with this Agreement under any theory of tort, contract, strict liability, negligence, or other legal or equitable theory for incidental or consequential damage relating to any work performed or not performed, services, acts or omissions, computer programs, software products, or related data furnished hereunder.
  - (d) Environmental Audit/Site Assessment report(s) are prepared for CLIENT's sole use. CLIENT agrees to defend, indemnify, and hold HR Green, its consultants, agents, and employees harmless against all damages, claims, expenses, and losses arising out of or resulting from any reuse of the Environmental Audit/Site Assessment report(s) without the written authorization of HR Green.
4. **TERMINATION OR ABANDONMENT.** If any portion of the work is terminated or abandoned by CLIENT, the provisions of this Schedule of Fees and Conditions in regard to compensation and payment shall apply insofar as possible to that portion of the work not terminated or abandoned. If said termination occurs prior to completion of any phase of the project, the fee for services performed during such phase shall be based on HR Green's reasonable estimate of the portion of such phase completed prior to said termination, plus a reasonable amount to reimburse HR Green for termination costs.
  5. **ATTORNEY FEES.** If litigation arises for purposes of collecting fees or expenses due under this Agreement, the Court in such litigation shall award reasonable costs and expenses, including attorney fees, to the party justly entitled thereto. In awarding attorney fees, the Court shall not be bound by any Court fee schedule, but shall, in the interest of justice, award the full amount of costs, expenses, and attorney fees paid or incurred in good faith.
  6. **WAIVER.** HR Green's waiver of any term, condition, or covenant or breach of any term, condition, or covenant, shall not constitute a waiver of any other term, condition, or covenant, or the breach thereof.
  7. **ENTIRE AGREEMENT.** This Agreement, and its attachments, constitutes the entire understanding between CLIENT and HR Green relating to professional engineering services. Any prior or contemporaneous agreements, promises, negotiations, or representations not expressly set forth herein are of no effect. Subsequent modifications or amendments to this Agreement shall be in writing and signed by the parties to this Agreement. If the CLIENT, its officers, agents, or employees request HR Green to perform extra work or services pursuant to this Agreement, CLIENT will pay for the additional services even though an additional written Agreement is not issued or signed.
  8. **SUCCESSORS AND ASSIGNS.** All of the terms, conditions, and provisions hereof shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns, provided, however, that no assignment of this Agreement shall be made without written consent of the parties to this Agreement.
  9. **OPINION OF PROBABLE CONSTRUCTION COSTS.** Opinion of probable construction costs for the facilities considered and designed under this Agreement are prepared by HR Green through exercise of its experience and judgment in applying presently available cost data, but it is recognized that HR Green has no control over costs of labor and materials, or over the construction contractor's methods of determining prices, or over competitive bidding procedures, market conditions, and unknown field conditions so that HR Green cannot and does not guarantee that proposals, bids, or the project construction costs will not vary from HR Green's opinion of probable construction costs.
  10. **INJURY TO WORKERS.** It is understood and agreed that HR Green's fee is based on HR Green being named as an Additional Insured on construction contractor's insurance policy for Comprehensive General Liability and Builders All Risk Liability, and CLIENT agrees to insert into all Contracts for construction between CLIENT and construction contractor(s) arising out of this design a provision requiring the construction contractor(s) to defend, indemnify, and hold harmless both CLIENT and HR Green from any and all actions arising out of the construction project, including, but not limited to, injury to or death of any worker on the job site, not caused by the sole negligence of CLIENT or HR Green.
  11. **SITE VISITS.** Visits to the construction site and observations made by HR Green as part of services during construction under this Agreement shall not make HR Green responsible for, nor relieve the construction contractor(s) of the obligation to conduct comprehensive monitoring of the work sufficient to ensure conformance with the intent of the Contract Documents, and shall not make HR Green responsible for, nor relieve the construction contractor(s) of the full responsibility for all construction means, methods, techniques, sequences, and procedures necessary for coordinating and completing all portions of the work under the construction contract(s), and for all safety precautions incidental thereto. Such visits by HR Green are not to be construed as part of the observation duties of the on-site observation personnel defined below.
  12. **ON-SITE OBSERVATION.** When HR Green provides on-site observation personnel as part of services during construction under this Agreement, the on-site observation personnel will make reasonable efforts to guard CLIENT against defects and deficiencies in the work of the contractor(s), and to help determine if the provisions of the Contract Documents are being fulfilled. Their day-to-day observation will not, however, cause HR Green to be responsible for those duties and responsibilities which belong to the construction contractor(s), including, but not limited to, full responsibility for the means, methods, techniques, sequences, and progress of construction, and the safety precautions incidental thereto, and for performing the construction work in accordance with the Contract Documents.

13. **SEVERABILITY.** If any provision of this Agreement is declared invalid, illegal, or incapable of being enforced by any Court of competent jurisdiction, all of the remaining provisions of this Agreement shall nevertheless continue in full force and effect, and no provision shall be deemed dependent upon any other provision unless so expressed herein.

14. **DISPUTE RESOLUTION.**

- (a) **Mediation.** In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the CLIENT and HR Green agree that all disputes between them arising out of or relating to this Agreement shall be submitted to non-binding mediation unless the parties mutually agree otherwise. The CLIENT and HR Green further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors, sub-consultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.
- (b) **Arbitration.** In the event the parties to this Agreement are unable to reach a settlement of any dispute arising out of the services under this Agreement, involving an amount of less than \$50,000, in accordance with Paragraph 14(a) Mediation, then such disputes shall be settled by binding arbitration by an arbitrator to be mutually agreed upon by the parties, and shall proceed in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. If the parties cannot agree on a single arbitrator, then the arbitrator(s) shall be selected in accordance with the above-referenced rules.

**EXHIBIT A**  
**CONSULTANT SCOPE OF SERVICES**

**City of Council Bluffs, IA**  
**2009 EPA Brownfields Hazardous Substance Cleanup Grant**  
**Former Industrial Use Site at 1001 South 6<sup>th</sup> Street**

Howard R. Green Company (HR Green) will assist the City of Council Bluffs with implementation of the EPA Cooperative Agreement Work Plan. Fees may be reallocated between tasks as needed to facilitate project implementation without exceeding the total fee of \$230,250. All reallocations will be coordinated with the City Brownfields Project Director.

**1.0 Grant Implementation and Coordination**

HR Green will assist the City Brownfields Project Director as needed with project management, administration and support required for project implementation. Tasks include:

- Assisting with establishment and maintenance of necessary cooperative agreement records and files;
- Assisting with administrative functions;
- Preparing quarterly and annual reports;
- Coordinating staffing and support activities necessary to perform the project in accordance with the Work Plan and required statutes, circulars, terms & conditions; and
- Attending and facilitating project meetings.

The estimated fee for Project Planning and Management activities is \$5,000.

**2.0 Community Involvement**

HR Green will assist the City Brownfields Project Director with the dissemination of information to property owners, tenants, businesses, and the community regarding Brownfields, the programs and options available to them to address perceived and actual health effects, emphasizing the benefit to them and the community. Tasks include:

- Preparing the Community Relations Plan;
- Managing the project website;
- Developing and producing of materials for public distribution; and
- Assisting with public meetings.

The estimated budget for Community Involvement activities is \$6,000.

**3.0 Cleanup Planning and Interagency Coordination**

HR Green will conduct the following activities in an effort to prepare the site for cleanup. Tasks include:

- Preparing and submitting a Quality Assurance Project Plan (QAPP). This will detail the investigation needed to complete the cleanup design and ensure that the resulting data from the pre-cleanup investigation and the cleanup verification will support a no further action decision for the site;
- Completing application and report documents for IDNR Land Recycling Program (LRP) enrollment;
- Completing of LRP required report for contamination delineation and health risk evaluation;
- Evaluating of cleanup options including the preparation of the Response Action and Analysis of Brownfield Cleanup Alternatives reports;

- Preparing of Bid Specifications for cleanup activities; and
- Providing technical and reporting assistance subsequent to requests made by IDNR, EPA or developers.

The estimated budget for Cleanup Planning and Interagency Coordination activities is \$37,000.

#### **4.0 Site Cleanup Activities**

HR Green will conduct the following activities for site cleanup under the Land Recycling Plan:

- Collecting soil, groundwater and/or vapor samples needed to delineate site contaminants;
- Completing the LRP Site Investigation Report;
- Collecting and evaluating receptor and exposure pathway data for completing LRP Risk Evaluation;
- Completing LRP Response Action and EPA Analysis of Brownfield Cleanup Alternatives;
- Coordinating and overseeing cleanup activities completed at the site;
- Contracting excavation and trucking companies to complete excavation activities;
- Preparing the cleanup report for the IDNR LRP;
- Preparing Environmental Covenants and site use restrictions; and
- Preparing of closure documents for No Further Action request.

The estimated fee for Site Cleanup activities is \$182,250.

Note: Cleanup fees are based on the allocation in the EPA Cooperative Agreement Work Plan for the 2009 Brownfields Cleanup Grant. Cleanup alternatives will be evaluated and attempts will be made to develop a remedial strategy that remains within the grant allocation. If the scope of cleanup activities requires funding above \$182,500, HR Green will present options to the City of Council Bluffs for additional funding sources and/or reduced cleanup activities.

## EXHIBIT B SCHEDULE

Date Implemented	Targeted Completion Date	Tasks	Responsibility
September 2010	February 2010	Planning Meeting to Discuss Implementation of Grant	Project Director/ HR Green
February 2010	May 2010	Prepare QAPP and submit to EPA	Project Director/ HR Green
March 2010	April 2010	LRP Enrollment paperwork	Project Director/ HR Green
		Community Relations Plan	Project Director/ HR Green
June 2010	August 2010	LRP Site Delineation and Reporting	HR Green
August 2010	September 2010	Risk Evaluation	HR Green
October 2010	December 2010	Response Action and Analysis of Brownfield Cleanup Alternatives	HR Green
January 2011	February 2011	Cleanup work plan and bld worksheet	HR Green
April 2011	October 2011	Site Cleanup including Environmental Covenants	Project Director/ HR Green
As Needed	As Needed	Hold Public Meeting to highlight Activities (completed and pending)	Project Director/ HR Green
November 2011	December 2011	LRP Closure Reports	HR Green
Quarterly	Quarterly	File project progress reports to Project Director	Project Director/ HR Green
As Needed	As Needed	Coordinate with government agencies and/or stakeholder groups	Project Director/ HR Green
February 2012	April 2012	Final Project Completion Report	Project Director/ HR Green
Subject to Professional Services Agreement	Subject to Professional Services Agreement	Investigate and pursue additional services of funding for risk assessment and cleanup (if needed).	HR Green

Note: Tasks are often subject to regulatory review by the EPA or Iowa DNR. Completion dates are listed as targeted because regulatory review time and/or field conditions during delineation and cleanup activities may require schedule adjustments.

EXHIBIT C  
HOWARD R. GREEN COMPANY

Billing Rate Schedule  
Effective January 1, 2010

<u>Professional Services</u>	<u>Billing Rate Range</u>
Principal	\$185 to \$225
Senior Professional	\$135 to \$185
Professional	\$110 to \$160
Junior Professional	\$80 to \$110
Senior Technician	\$75 to \$100
Technician	\$50 to \$80
Field Personnel	\$50 to \$80
1 – Person w/GPS or Robotic Equipment	\$105
2 – Person Crew w/GPS or Robotic Equipment	\$155
Administrative	\$40 to \$75

Reimbursable Expenses

1. All materials and supplies used in the performance of work on this project will be billed at cost plus 10%.
2. Auto mileage will be reimbursed per the standard mileage reimbursement rate established by the Internal Revenue Service. Survey vehicle mileage will be reimbursed on the basis of \$0.85 per mile.
3. Charges for sub-consultants will be billed at their invoice cost plus 15%.
4. A rate of \$6.00 will be charged per Howard R. Green labor hour for a technology and communication fee.
5. All other direct expenses will be invoiced at cost plus 10%.
6. Project work completed beyond 2010 will be subject to future year's rate schedule.

**RESOLUTION NO. 10-68**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH HOWARD R. GREEN COMPANY FOR CONSULTANT SERVICES FOR THE 2009 U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) BROWNFIELDS CLEANUP GRANT FOR 1001 SOUTH 6<sup>TH</sup> STREET.**

WHEREAS, the City has received a \$200,000 US EPA Brownfields Cleanup Grant for 1001 South 6<sup>th</sup> Street; and

WHEREAS, the grant will be utilized to enroll the site in the State of Iowa's Land Recycling Program and remediate the contaminants on the site for future redevelopment activities, and

WHEREAS, Cooperative agreements and oversight, community involvement, and cleanup activities will be carried out in accordance with the City's approved EPA Workplan; and

WHEREAS, the Community Development Department recommends that the City Council authorize the Mayor to execute a contract with Howard R. Green Company to assist in completing said work.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA:

That the Mayor is hereby authorized to execute a contract with Howard R. Green Company for consultant services for the 2009 EPA Brownfields Cleanup Grant for 1001 South 6<sup>th</sup> Street.

ADOPTED  
AND  
APPROVED:

February 22, 2010

\_\_\_\_\_  
Thomas P. Hanafan Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden City Clerk

## Council Communication

Department: Community Development	Resolution No.: <u>10-69</u>	Council Action: February 22, 2010
<b>Subject/Title</b>		
Approve the Residential Anti-displacement and Relocation Assistance (RARA) Plan		
<b>Background/Discussion</b>		
<u>Background</u> The Residential Anti-displacement and Relocation Assistance (RARA) Plan under Section 104(d) of the Housing and Community Development Act of 1974, as amended is a document which describes how the City of Council Bluffs will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate-income housing in connection with an activity assisted with funds provided under the Housing and Community Development Act of 1974, as amended, as described in 24 CFR 570.496a(c)(1). The RARA is a requirement of the City's use of Community Development Block Grant (CDBG), Home Investment Partnership (HOME), Neighborhood Stabilization Program (NSP) and other federal funds which are made available from the U. S. Department of Housing and Urban Development (HUD). The Community Development Advisory Committee (CDAC) assists the Community Development Department with the preparation of required documents for the federal funds the City receives, including holding public hearings. Occasionally, throughout the year, as additional information becomes known, it is necessary to review and make recommendations on the requirements of the federal funds which the City receives from HUD.		
<u>Discussion</u> The Community Development staff has prepared a RARA for the City of Council Bluffs in accordance with HUD's guidelines. On February 4, 2010, the Community Development Advisory Committee held a public hearing to review the document and recommended approval of the RARA.		
<b>Staff Recommendation</b>		
The Community Development Department recommends approving the Residential Anti-displacement and Relocation Assistance (RARA) Plan under Section 104(d) of the Housing and Community Development Act of 1974, as amended.		
<b>Community Development Advisory Committee</b>		
CDAC recommends approving the Residential Anti-displacement and Relocation Assistance (RARA) Plan under Section 104(d) of the Housing and Community Development Act of 1974, as amended.		
VOTE to approve the RARA: AYE: Heininger, Lastrup, Madsen, and McManus; NAY – None; ABSTAIN – None; ABSENT – None.		
<b>Attachments</b>		
Attachment A – Residential Anti-displacement and Relocation Assistance (RARA) Plan under Section 104(d) of the Housing and Community Development Act of 1974, as amended		

Submitted by: Tina Hochwender, Project Coordinator, Community Development Department

Approved by: Donald D. Gross, Director, Community Development Department

The Residential Anti-displacement and Relocation Assistance Plan Under Section 104(d)  
of the Housing and Community Development Act of 1974, As Amended

The City of Council Bluffs, Iowa will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate-income housing in connection with an activity assisted with funds provided under the Housing and Community Development Act of 1974, as amended, as described in 24 CFR 570.496a(c)(1).

All replacement housing will be provided within three years after the commencement of the demolition or conversion. Before entering into a contract committing the *City of Council Bluffs* to provide funds for an activity that will directly result in demolition or conversion, the *City of Council Bluffs* will make public by publication in a newspaper of general circulation and submit to IDED the following information in writing:

1. A description of the proposed assisted project;
2. The address, number of bedrooms, and location on a map of low/moderate-income housing that will be demolished or converted to a use other than as low/moderate-income housing as a result of an assisted project;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. To the extent known, the address, number of bedrooms and location on a map of the replacement housing that has been or will be provided.
5. The source of funding and a time schedule for the provision of the replacement housing;
6. The basis for concluding that the replacement housing unit will remain a low/moderate-income dwelling unit for at least 10 years from the date of initial occupancy.
7. Information demonstrating that any proposed replacement of dwelling units with smaller dwelling units (e.g., a 2-bedroom unit with two 1-bedroom units), or any proposed replacement of efficiency or single-room occupancy (SRO) units with units of a different size, is appropriate and consistent with the housing needs and priorities identified in the state's Consolidated Plan for Housing and Community Development.

To the extent that the specific location of the replacement housing and other data in items 4 through 7 are not available at the time of the general submission, the *City of Council Bluffs* will identify the general location of such housing on a map and complete the disclosure and submission requirements as soon as the specific data are available.

The Community Development Department, 209 Pearl Street, (712) 328-4629, is responsible for tracking the replacement of housing and ensuring that it is provided within the required period. The Community Development Department, 209 Pearl Street, (712) 328-4629, is responsible for ensuring requirements are met for notification and provision of relocation assistance, as described in CFR 570.496(a)(c)(2), to any lower-income person displaced by the demolition of any dwelling unit or the conversion of a low/moderate-income dwelling unit to another use in connection with an assisted activity.

Consistent with the goals and objectives of activities assisted under the Act, the *City of Council Bluffs* will take the following steps to minimize the direct and indirect displacement of persons from their homes.\*

1. Coordinate code enforcement with rehabilitation and housing Assistance programs.
2. Evaluate housing codes and rehabilitation standards in reinvestment areas to prevent undue financial burden on established owners and tenants.
3. State rehabilitation of apartment units to allow tenants to remain in the building/complex during and after the rehabilitation, working with empty units first.
4. Arrange for facilities to house persons who must be relocated temporarily during rehabilitation.
5. Adopt policies to identify and mitigate displacement resulting from intensive public investment in neighborhood.
6. Adopt policies which provide reasonable protection for tenants faced with conversion to a condominium or cooperative.
7. Adopt tax assessment policies, such as deferred tax payment plans, to reduce impact of increasing property tax assessments on lower income owner-occupants or tenants in revitalizing areas.

\* The jurisdiction must determine the appropriate steps. Examples are listed.

Adopted by the Council of the *City of Council Bluffs* this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signed {Mayor/Chairperson} \_\_\_\_\_ Attest: \_\_\_\_\_

**RESOLUTION NO. 10-69**

**A RESOLUTION APPROVING THE CITY OF COUNCIL BLUFFS' RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE (RARA) PLAN UNDER SECTION 104(D) OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED.**

- WHEREAS, The Residential Anti-displacement and Relocation Assistance (RARA) Plan under Section 104(d) of the Housing and Community Development Act of 1974, as amended is a document which describes how the City of Council Bluffs will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate-income housing in connection with an activity assisted with funds provided under the Housing and Community Development Act of 1974, as amended, as described in 24 CFR 570.496a(c)(1); and
- WHEREAS, The RARA is a requirement of the City's use of Community Development Block Grant (CDBG), Home Investment Partnership (HOME), Neighborhood Stabilization Program (NSP) and other federal funds which are made available from the U. S. Department of Housing and Urban Development (HUD); and
- WHEREAS, The Community Development Advisory Committee (CDAC) held a public hearing on February 4, 2010 and upon review and consideration CDAC recommends approval of the RARA; and
- WHEREAS, it is the opinion of City Council that it would be in the best interest of the City to approve the Residential Anti-displacement and Relocation Assistance (RARA) Plan under Section 104(d) of the Housing and Community Development Act of 1974, as amended.

**NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA**

That the Mayor is hereby directed to approve the Residential Anti-displacement and Relocation Assistance (RARA) Plan under Section 104(d) of the Housing and Community Development Act of 1974, as amended as required by the U.S. Department of Housing and Urban Development.

ADOPTED  
AND  
APPROVED:

February 22, 2010

\_\_\_\_\_  
Thomas P. Hanafan

Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden

City Clerk

## Council Communication

Department: Community Development	Resolution Nos.: <u>10-70</u>	City Council: 2-22-10
Case/Project Nos.: URV-10-001 & URV-10-002		
<b>Subject/Title</b>		
Urban Revitalization Applications for the 2009 Tax Assessment Year		
<b>Applicants</b>		
URV-10-001: Teq Properties, LLC URV-10-002: Bernard and Marilyn Glenn		
<b>Location</b>		
South 19 <sup>th</sup> Street Urban Revitalization Area (South 19 <sup>th</sup> Street and Veterans Memorial Highway)		
<b>Background/Discussion</b>		
<u>Background</u> Chapter 404 of the Iowa Code authorizes a City to designate an area as an urban revitalization area. Improvements to qualified real estate within designated areas may then be eligible to receive a total or partial exemption from property taxes for a specified number of years. The exemptions are intended to stimulate private investment by reducing the tax increase that would normally result from making improvements to real estate property.  Urban revitalization tax abatement incentives can apply to residential, commercial and industrial development. Both new construction on vacant or unimproved land and rehabilitation of existing structures are eligible for tax abatement. All eligible commercial and industrial real estate is eligible to receive a partial exemption from taxation or a full exemption on the actual value added by the improvements. The partial exemption is for a period of ten years and the full 100% exemption is for a period of three years.		
<u>Discussion</u>		
<b>1. Teq Properties, LLC</b> <b>4405 South 19<sup>th</sup> Street (Lot 5 in South Pointe Subdivision, Replat 1)</b>  Teq Properties, LLC began the construction of a 5,250 sq. ft. facility in 2008 and completed it in 2009. Teqnikote, Inc. is occupying the building. Teqnikote is an industrial coating distributor and currently employs three people. Teq Properties, LLC is requesting a partial exemption for ten years. Their 2009 project costs, as of December 31, 2009, total \$395,873.72. A detailed builder's cost breakdown is attached as a part of the application.  The Community Development Department has reviewed the request and finds the following: a) The request is in conformance with the South 19 <sup>th</sup> Street Urban Revitalization Plan. b) The request pertains to property improvements located within a designated urban revitalization area. c) The request is for work completed in 2009 and all appropriate materials have been submitted within the timeframe required for abatement. d) The request is consistent with Chapter 404 of the Iowa Code and applicable city ordinances. e) The property is classified as industrial and is therefore consistent with the eligibility criteria contained in the South 19 <sup>th</sup> Street Urban Revitalization Plan. f) Building permits have been issued and the project appears to be consistent with all applicable city codes.		

**2. Bernard and Marilyn Glenn**  
**4343 South 19<sup>th</sup> Street (Lot 2 in South Pointe Subdivision, Replat 1)**

Bernard and Marilyn Glenn began the construction of a 7,000 sq. ft. facility in 2008 and completed it in 2009. Protech is occupying the building. Protech sells and installs shelving designed for commercial vans and trucks and currently employs four people. Bernard and Marilyn Glenn are requesting a partial exemption for ten years. Their 2009 project costs, as of December 31, 2009, total \$45,758.00. A detailed builder's cost breakdown is attached as a part of the application.

The Community Development Department has reviewed the request and finds the following:

- a) The request is in conformance with the South 19<sup>th</sup> Street Urban Revitalization Plan.
- b) The request pertains to property improvements located within a designated urban revitalization area.
- c) The request is for work completed in 2009 and all appropriate materials have been submitted within the timeframe required for abatement.
- d) The request is consistent with Chapter 404 of the Iowa Code and applicable city ordinances.
- e) The property is classified as industrial and is therefore consistent with the eligibility criteria contained in the South 19<sup>th</sup> Street Urban Revitalization Plan.
- f) Building permits have been issued and the project appears to be consistent with all applicable city codes.

**Staff Recommendations**

**Recommendation #1:** The Community Development Department recommends that the City Council approve and adopt a resolution granting approval for 2009 tax abatement requested by Teq Properties, LLC for the property located at 4405 South 19<sup>th</sup> Street.

**Recommendation #2:** The Community Development Department recommends that the City Council approve and adopt a resolution granting approval for 2009 tax abatement requested by Bernard and Marilyn Glenn for the property located at 4343 South 19<sup>th</sup> Street.

**Attachments**

- 1) Urban Revitalization Application from Teq Properties, LLC
- 2) Urban Revitalization Application from Bernard and Marilyn Glenn

Submitted by: Brenda Carrico, Program Coordinator, Community Development Department  
Approved by: Donald D. Gross, Director, Community Development Department

# 2010 APPLICATION FOR URBAN REVITALIZATION INCENTIVES

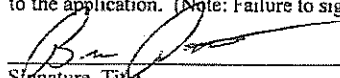
CASE # URV-10-001

1. Applicant: Teg Properties, LLC Phone: 712.309.3400  
Address: 4405 So 19<sup>th</sup> St, Council Bluffs, Iowa, 51501 \*Status: \_\_\_\_\_
2. Represented by: Brian Peterson Phone: 712.322.7840  
Address: 210 Elmwood Dr, Council Bluffs, Iowa, 51503
3. Name of company who will be occupying the building: Tegnikote, Inc.
4. Address or location of property: 4405 So 19<sup>th</sup> St, Council Bluffs, IA, 51501
5. Legal description: Lot 5 in the final Plat of South Pointe Subdivision Replat 1, being a replat of Lot 7 & 8 in South Point Subdivision in the city of Council Bluffs, Pottawattamie County, Iowa
6. Present zoning district: I2
7. Present assessed valuation of property:  
Total: \$ 1,928 Land: \$ 1,928  
Dwelling: \$ 0 Other Building: \$ 0
8. Project narrative (include size of building, type of business, jobs created, etc.—attach additional sheets if necessary): A 5250 Square foot Steel Building, to be occupied by Tegnikote, Inc, an industrial Coating Distributor, who employs 3 currently
9. Total project investment (cumulative): \$557,444.30 excluding land
10. Total project investment (2009 only): \$395,873.72 excluding land
11. Construction start date: November 14, 2008  
Construction completion date: July 1, 2009
12. Exemption schedule:  
☒ Partial exemption for ten years  
☐ 100% exemption for three years  
☐ 100% exemption for four years (multi-family residential only)
13. Attached to the application are:  
Exhibit 'A' - Builder's cost breakdown or a copy of the contractor's accepted bid or a copy of a bill for completed work.  
Exhibit 'B' - Check for application processing fee  
Exhibit 'C' - \_\_\_\_\_
14. Will any persons, including families, business concerns or others be displaced as a result of the improvements made for this project? \_\_\_\_\_ Yes \_\_\_\_\_ ☒ No  
If Yes, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* Status (designate one): P.O. - Property Owner L.H. - Legal Option Holder  
C.P. - Contract Purchaser A. - Owner's Authorized Agent

14. Waiver to enter property:

The applicant hereby authorizes the Community Development Department, the Assessor's Office and their representatives to enter the property described above for the purpose of verifying all claims and data related to the application. (Note: Failure to sign the authorization may prevent the processing of the application.)

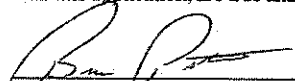
  
\_\_\_\_\_  
Signature, Title

Brian Peterson, Manager  
\_\_\_\_\_  
Print name and title

January 20, 2010  
\_\_\_\_\_  
Date

**CERTIFICATION**

I certify that all information, representations, or statements provided to the City of Council Bluffs, in connection with this application, are true and correct in all material respects.

  
\_\_\_\_\_  
Signature, Title

Brian Peterson, Manager  
\_\_\_\_\_  
Print name and title

January 20, 2010  
\_\_\_\_\_  
Date

EXHIBIT 'A' - BUILDER'S COST BREAKDOWN

1. TYPE OF BUILDING OR IMPROVEMENT AND USE: Steel Building, 5250 Sq Ft.
2. BASIC BUILDING OR IMPROVEMENT CONSTRUCTION: New Construction
3. BUILDER'S COST BREAKDOWN: (Must be filled in completely)

ARCHITECT.....	SEE
SURVEY.....	ATTACHED
EXCAVATING AND GRADING.....	FOR
MASON.....	BREAKDOWN
Material.....	
Labor.....	
CONCRETE (basement, walks, drive).....	
ORNAMENTAL.....	
CARPENTER (labor, lumber, hardware).....	
PAINTING AND DECORATING.....	
ROOFING.....	
HEATING AND AIR CONDITIONING.....	
PLUMBING (including sewers).....	
TILE.....	
ELECTRICAL.....	
INSULATION.....	
DRY WALL.....	
GLASS.....	
BUILDING PERMITS.....	
INSURANCE.....	
CONSTRUCTION LOAN FEE AND INTEREST.....	
TITLE EXPENSE.....	
SALE EXPENSE.....	
ADVERTISING.....	
MISCELLANEOUS.....	
OVERHEAD AND PROFIT.....	
FIXTURES AND EQUIPMENT.....	
TOTAL BUILDING COST.....	\$ 557,444.30
PURCHASE PRICE OF LAND.....	\$ 134,660.00
TOTAL (land plus improvement cost).....	\$ 692,104.30

4. CERTIFICATION:

I, the undersigned, representing ownership on the above property, herewith certify that the above statement of amounts and actual value of said property is true and correct, and represents total cost and investment by all parties involved.

Subscribed and sworn to before me,

this 20<sup>th</sup> day of January, 2010

Cynthia A. Clark  
Notary Public



SIGNATURE: [Signature]  
NAME

Manager  
TITLE OR POSITION WITH COMPANY

Greg R. Peterson and Brian T. Peterson  
OWNER'S NAME

Teq Properties, LLC  
NAME OF BUSINESS OR COMPANY

THIS PAGE IS FOR OFFICIAL USE ONLY:

Name of Area: South 19<sup>th</sup> Street Urban Revitalization Area

Date Established: October 25, 2004

Expiration Date: October 25, 2014

Is the application complete? X Yes        No

Is the project eligible? X Yes        No

The Director of the Community Development Department does hereby certify that the applicant's application is complete, the project as presented is eligible and X approves        disapproves the work as being in substantial conformance with the improvement plan.

Signature:  25-10  
Donald D. Gross, Director, Community Development Department

The Mayor and the City Council for the City of Council Bluffs, Iowa, do hereby        approve        disapprove the applicant's project as being in substantial conformance with the City's plan for urban revitalization and do thereby also        approve        disapprove the project as qualifying for the benefits under urban revitalization.

Signature:         
Thomas P. Hanafan, Mayor, City of Council Bluffs

This application is forwarded to the Office of the Assessor on the        day of       , 2010, and hereby qualifies for an exemption from taxation as follows:

1. All qualified real estate is eligible to receive a partial exemption from taxation on the actual value added by the improvements. The exemption is for a period of ten years. The amount of the partial exemption is equal to a percent of the actual value added by the improvements, determined as follows:
- a. For the first year, eighty percent
  - b. For the second year, seventy percent
  - c. For the third year, sixty percent
  - d. For the fourth year, fifty percent
  - e. For the fifth year, forty percent
  - f. For the sixth year, forty percent
  - g. For the seventh year, thirty percent
  - h. For the eighth year, thirty percent
  - i. For the ninth year, twenty percent
  - j. For the tenth year, twenty percent
2. All qualified real estate is eligible to receive a one hundred percent exemption from taxation on the actual value added by the improvements. The exemption is for a period of three years.
3. All qualified residential real estate, comprising of 12 or more multi-family dwelling units, is eligible to receive a 100% exemption for a period of four years.

# Teq Properties, LLC

4405 S 19<sup>th</sup> St • Council Bluffs, IA 51501  
Email info@teqnikote.com • Phone 712 309.3400

BUILDING COSTS	CONTRACTOR	PO#	2008	2009	TOTAL
GENERAL CONDITIONS	HENNINGSEN	C100			incl below
ARCHITECT	HENNINGSEN	C100			incl below
PERMIT	HENNINGSEN	C100	\$ 2,500.00		\$ 2,500.00
STAKING & LAYOUT	SNYDER	C102	\$ 1,596.00	1,064.00	\$ 2,660.00
DIRTWORK	Gillett	C104	\$ 4,400.00		\$ 4,400.00
DUMPSTERS	HENNINGSEN	C100			incl below
SITE UTILITIES	DRIVER	C103	\$ 10,562.00		\$ 10,562.00
PARKING LOT	CYC	C101			incl below
FOOTING & FOUNDATION	CYC	C101			incl below
FLOOR	CYC	C101	\$ 50,362.97	76,556.83	\$ 126,919.80
ANCHOR BOLTS	HENNINGSEN	C100			incl below
STEEL BUILDING	HENNINGSEN	C100			incl below
RAILINGS & BOLLARDS	CYC	C101			incl in pkg lot
INSULATION	HENNINGSEN	C100			incl below
ERECTION	HENNINGSEN	C100			incl below
WALK DOORS	HENNINGSEN	C100	\$ 85,269.15	79,820.85	\$ 165,090.00
ALUMINUM DOOR & WINDOWS	KEENAN	C107		16,910.70	\$ 16,910.70
LOW E GLASS ADD ON	KEENAN	C107		1,000.00	\$ 1,000.00
GARAGE DOORS	OMAHA DOOR	C106		5,006.00	\$ 5,006.00
DOCK LEVELER	OMAHA DOOR	C109		5,025.00	\$ 5,025.00
PLUMBING	GOHLINGHORST	C111	\$ 3,461.96	13,855.03	\$ 17,316.99
ELECTRICAL	GLENCO	C126		33,357.05	\$ 33,357.05
ELECTRICAL	PLC			6,500.00	\$ 6,500.00
SECURITY SYSTEM	ALL HOME CENTRAL	C118		2,462.72	\$ 2,462.72
HVAC	MOORE	C106		20,000.00	\$ 20,000.00
INTERIOR FRAMING	OURSELVES			12,409.38	\$ 12,409.38
DRYWALL	ZYCH DRYWALL	C117		21,379.00	\$ 21,379.00
CEILINGS	COMMERCIAL CEILINGS	C127		5,253.17	\$ 5,253.17
INSULATION	CORNHUSKER INSULATION	C122		1,210.00	\$ 1,210.00
INTERIOR DOORS, TRIM	OURSELVES			8,434.54	\$ 8,434.54
INTERIOR DOORS, TRIM	JOHNSON HARDWARE	C113		5,877.52	\$ 5,877.52
HANDRAIL	EICHER CONST			300.00	\$ 300.00
PAINTING	MENARDS			2,342.86	\$ 2,342.86
CABINETRY	HOLT WOODWORKING			5,094.87	\$ 5,094.87
CARPET	EAGLE GROUP	C124		3,741.58	\$ 3,741.58
CARPET INSTALLATION	JOEY BAUER'S CARPET			2,299.25	\$ 2,299.25
RUBBER BASE	CUBS DIST			437.50	\$ 437.50
FLOORING	KELLY'S CARPET			2,820.15	\$ 2,820.15
FLOORING	JOHN GRAYBILL			560.00	\$ 560.00
STONE	LUMBERMAN'S/GABRIEL	C116		13,355.49	\$ 13,355.49
SPRINKLER	CONTINENTAL	C108	\$ 2,548.50	27,698.50	\$ 30,247.00
LANDSCAPING	PLC			19,443.10	\$ 19,443.10
DRAINAGE PIPES	MENARDS	C123		1,658.63	\$ 1,658.63
CURB GRINDING	FINELINE GRADING	C110	\$ 870.00		\$ 870.00
TOTAL			\$ 161,570.58	\$ 395,873.72	\$ 557,444.30

LAND			134,660.00		134,660.00
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**RESOLUTION NO. 10-70**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, IOWA GRANTING APPROVAL OF TAX ABATEMENT ON IMPROVEMENTS MADE TO REAL PROPERTY AT 4405 SOUTH 19<sup>TH</sup> STREET IN THE SOUTH 19<sup>TH</sup> STREET URBAN REVITALIZATION AREA DURING THE 2009 TAX ASSESSMENT YEAR.**

- WHEREAS,** the City Council has at its discretion the ability to approve tax abatement requests when improvements are made to real property within certain urban revitalization areas; and
- WHEREAS,** Teq Properties, LLC has made such improvements by constructing a 5,250 sq. ft. building; and
- WHEREAS,** this building is addressed as 4405 South 19<sup>th</sup> Street and is legally described as Lot 5 of South Pointe Subdivision, Replat 1; and
- WHEREAS,** the building is owned by Teq Properties, LLC and occupied by Teqnikote, Inc.; and
- WHEREAS,** during the 2009 tax assessment year, eligible costs of \$395,873.72 were incurred; and
- WHEREAS,** the tax abatement request pertains to property improvements located entirely within the boundaries of the South 19<sup>th</sup> Street Urban Revitalization Area; and
- WHEREAS,** said work is consistent with all applicable city ordinances and codes, the goals and objectives of the South 19<sup>th</sup> Street Urban Revitalization Area and Section 404 of the Iowa Code; and
- WHEREAS,** the applicant has requested a partial exemption for ten years as authorized under Iowa Code 404.3 and the South 19<sup>th</sup> Street Urban Revitalization Area; and
- WHEREAS,** the tax abatement application and all necessary attachments have been reviewed and approved by the Community Development Department.

**NOW, THEREFORE, BE IT RESOLVED  
BY THE  
CITY COUNCIL OF THE  
CITY OF COUNCIL BLUFFS, IOWA**

The City Council hereby finds that the request for review of property tax abatement on improvements made to real property located at 4405 South 19<sup>th</sup> Street during the 2009 tax assessment year to be in compliance with the purpose and intent of the South 19<sup>th</sup> Street Urban Revitalization Plan and that approval of tax abatement will be in the best interest of the City of Council Bluffs, Iowa.

**BE IT FURTHER RESOLVED**

That the City Council does hereby approve tax abatement for said project for the 2009 tax assessment year.

ADOPTED  
AND  
APPROVED

February 22, 2010

\_\_\_\_\_  
Thomas P. Hanafan      Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden      City Clerk

## Council Communication

<b>Department:</b> Community Development  <b>Case/Project Nos.:</b> URV-10-001 & URV-10-002	<b>Resolution Nos.:</b> <u>10-71</u>	<b>City Council:</b> 2-22-10
<b>Subject/Title</b>		
Urban Revitalization Applications for the 2009 Tax Assessment Year		
<b>Applicants</b>		
URV-10-001: Teq Properties, LLC URV-10-002: Bernard and Marilyn Glenn		
<b>Location</b>		
South 19 <sup>th</sup> Street Urban Revitalization Area (South 19 <sup>th</sup> Street and Veterans Memorial Highway)		
<b>Background/Discussion</b>		
<p><u>Background</u></p> <p>Chapter 404 of the Iowa Code authorizes a City to designate an area as an urban revitalization area. Improvements to qualified real estate within designated areas may then be eligible to receive a total or partial exemption from property taxes for a specified number of years. The exemptions are intended to stimulate private investment by reducing the tax increase that would normally result from making improvements to real estate property.</p> <p>Urban revitalization tax abatement incentives can apply to residential, commercial and industrial development. Both new construction on vacant or unimproved land and rehabilitation of existing structures are eligible for tax abatement. All eligible commercial and industrial real estate is eligible to receive a partial exemption from taxation or a full exemption on the actual value added by the improvements. The partial exemption is for a period of ten years and the full 100% exemption is for a period of three years.</p>		
<p><u>Discussion</u></p> <p><b><i>1. Teq Properties, LLC</i></b> <b><i>4405 South 19<sup>th</sup> Street (Lot 5 in South Pointe Subdivision, Replat 1)</i></b></p> <p>Teq Properties, LLC began the construction of a 5,250 sq. ft. facility in 2008 and completed it in 2009. Teqnikote, Inc. is occupying the building. Teqnikote is an industrial coating distributor and currently employs three people. Teq Properties, LLC is requesting a partial exemption for ten years. Their 2009 project costs, as of December 31, 2009, total \$395,873.72. A detailed builder's cost breakdown is attached as a part of the application.</p> <p>The Community Development Department has reviewed the request and finds the following:</p> <ul style="list-style-type: none"><li>a) The request is in conformance with the South 19<sup>th</sup> Street Urban Revitalization Plan.</li><li>b) The request pertains to property improvements located within a designated urban revitalization area.</li><li>c) The request is for work completed in 2009 and all appropriate materials have been submitted within the timeframe required for abatement.</li><li>d) The request is consistent with Chapter 404 of the Iowa Code and applicable city ordinances.</li><li>e) The property is classified as industrial and is therefore consistent with the eligibility criteria contained in the South 19<sup>th</sup> Street Urban Revitalization Plan.</li><li>f) Building permits have been issued and the project appears to be consistent with all applicable city codes.</li></ul>		

**2. Bernard and Marilyn Glenn**

**4343 South 19<sup>th</sup> Street (Lot 2 in South Pointe Subdivision, Replat 1)**

Bernard and Marilyn Glenn began the construction of a 7,000 sq. ft. facility in 2008 and completed it in 2009. Protech is occupying the building. Protech sells and installs shelving designed for commercial vans and trucks and currently employs four people. Bernard and Marilyn Glenn are requesting a partial exemption for ten years. Their 2009 project costs, as of December 31, 2009, total \$45,758.00. A detailed builder's cost breakdown is attached as a part of the application.

The Community Development Department has reviewed the request and finds the following:

- a) The request is in conformance with the South 19<sup>th</sup> Street Urban Revitalization Plan.
- b) The request pertains to property improvements located within a designated urban revitalization area.
- c) The request is for work completed in 2009 and all appropriate materials have been submitted within the timeframe required for abatement.
- d) The request is consistent with Chapter 404 of the Iowa Code and applicable city ordinances.
- e) The property is classified as industrial and is therefore consistent with the eligibility criteria contained in the South 19<sup>th</sup> Street Urban Revitalization Plan.
- f) Building permits have been issued and the project appears to be consistent with all applicable city codes.

**Staff Recommendations**

**Recommendation #1:** The Community Development Department recommends that the City Council approve and adopt a resolution granting approval for 2009 tax abatement requested by Teq Properties, LLC for the property located at 4405 South 19<sup>th</sup> Street.

**Recommendation #2:** The Community Development Department recommends that the City Council approve and adopt a resolution granting approval for 2009 tax abatement requested by Bernard and Marilyn Glenn for the property located at 4343 South 19<sup>th</sup> Street.

**Attachments**

- 1) Urban Revitalization Application from Teq Properties, LLC
- 2) Urban Revitalization Application from Bernard and Marilyn Glenn

Submitted by: Brenda Carrico, Program Coordinator, Community Development Department

Approved by: Donald D. Gross, Director, Community Development Department

# 2010 APPLICATION FOR URBAN REVITALIZATION INCENTIVES

CASE # URV-10-002

1. Applicant: Bernard & Marilyn Glenn Phone: 712-322-3522  
Address: 1504 Indian Hills' Rd. \*Status: P.O.
- \* Status (designate one): P.O. - Property Owner L.H. - Legal Option Holder  
C.P. - Contract Purchaser A. - Owner's Authorized Agent
2. Represented by: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_
3. Name of company who will be occupying the building: Protech Sales
4. Address or location of property: 4343 South 19th Street
5. Legal description: Lot 2, South Pointe
6. Present zoning district: I-2
7. Present assessed valuation of property:  
Total: \$ 212,000 Land: \$ 189,750  
Dwelling: \$ \_\_\_\_\_ Other Building: \$ 22,250
8. Project narrative (include size of building, type of business, jobs created, etc.—attach additional sheets if necessary): Building is 70'x100", vehicle fitouts, four jobs
9. Total project investment (cumulative): 577,297.00
10. Total project investment (2009 only): 45,758.00
11. Construction start date: Oct. 08  
Construction completion date: May 09
12. Exemption schedule:  
☒ Partial exemption for ten years  
☐ 100% exemption for three years  
☐ 100% exemption for four years (multi-family residential only)
13. Attached to the application are:  
Exhibit 'A' - Builder's cost breakdown or a copy of the contractor's accepted bid or a copy of a  
\_\_\_\_\_ bill for completed work.  
Exhibit 'B' - Check for application processing fee  
Exhibit 'C' - \_\_\_\_\_

14. Will any persons, including families, business concerns or others be displaced as a result of the improvements made for this project? \_\_\_\_\_ Yes \_\_\_\_\_ x No

If Yes, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. Waiver to enter property:

The applicant hereby authorizes the Community Development Department, the Assessor's Office and their representatives to enter the property described above for the purpose of verifying all claims and data related to the application. (Note: Failure to sign the authorization may prevent the processing of the application.)

Marilyn Glenn owner  
Signature, Title

Marilyn Glenn owner  
Print name and title

1-28-10  
Date

#### **CERTIFICATION**

I certify that all information, representations, or statements provided to the City of Council Bluffs, in connection with this application, are true and correct in all material respects.

Marilyn Glenn owner  
Signature, Title

Marilyn Glenn owner  
Print name and title

1-28-10  
Date

EXHIBIT 'A' - BUILDER'S COST BREAKDOWN

1. TYPE OF BUILDING OR IMPROVEMENT AND USE: Metal Building
2. BASIC BUILDING OR IMPROVEMENT CONSTRUCTION: New Building
3. BUILDER'S COST BREAKDOWN: (Must be filled in completely)

ARCHITECT .....	
SURVEY .....	
EXCAVATING AND GRADING .....	
MASON .....	Material .....
	Labor .....
CONCRETE (basement, walks, drive) .....	
ORNAMENTAL .....	
CARPENTER (labor, lumber, hardware) .....	
PAINTING AND DECORATING .....	550.00
ROOFING .....	
HEATING AND AIR CONDITIONING .....	10,000.00
PLUMBING (including sewers) .....	
TILE .....	1,920.00
ELECTRICAL .....	15,000.00
INSULATION .....	1,100.00
DRY WALL .....	7,780.00
GLASS .....	
BUILDING PERMITS .....	
INSURANCE .....	
CONSTRUCTION LOAN FEE AND INTEREST .....	
TITLE EXPENSE .....	
SALE EXPENSE .....	
ADVERTISING .....	
MISCELLANEOUS .....	
USV..... Interior Doors & overhead doors .....	96,408.00
OVERHEAD AND PROFIT .....	
FIXTURES AND EQUIPMENT .....	
TOTAL BUILDING COST .....	\$ 420,397.00
PURCHASE PRICE OF LAND .....	\$ 156,900.00
TOTAL (land plus improvement cost) .....	\$ 577,297.00

4. CERTIFICATION:

I, the undersigned, representing ownership on the above property, herewith certify that the above statement of amounts and actual value of said property is true and correct, and represents total cost and investment by all parties involved.

Subscribed and sworn to before me.

SIGNATURE:

NAME

NAME \_\_\_\_\_

this 28<sup>th</sup> day of January, 2010

owner

TITLE OR POSITION WITH COMPANY

Bernard & Marilyn Glenn

OWNER'S NAME

Protech Sales

NAME OF BUSINESS OR COMPANY

Notary Public



THIS PAGE IS FOR OFFICIAL USE ONLY:

Name of Area: South 19<sup>th</sup> Street Urban Revitalization Area

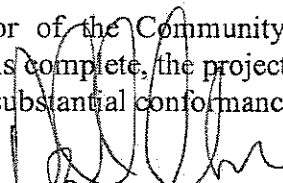
Date Established: October 25, 2004

Expiration Date: October 25, 2014

Is the application complete? X Yes        No

Is the project eligible? X Yes        No

The Director of the Community Development Department does hereby certify that the applicant's application is complete, the project as presented is eligible and X approves        disapproves the work as being in substantial conformance with the improvement plan.

Signature:  7510

Donald D. Gross, Director, Community Development Department

The Mayor and the City Council for the City of Council Bluffs, Iowa, do hereby        approve        disapprove the applicant's project as being in substantial conformance with the City's plan for urban revitalization and do thereby also        approve        disapprove the project as qualifying for the benefits under urban revitalization.

Signature:       

Thomas P. Hanafan, Mayor, City of Council Bluffs

This application is forwarded to the Office of the Assessor on the        day of       , 2010, and hereby qualifies for an exemption from taxation as follows:

       1. All qualified real estate is eligible to receive a partial exemption from taxation on the actual value added by the improvements. The exemption is for a period of ten years. The amount of the partial exemption is equal to a percent of the actual value added by the improvements, determined as follows:

- a. For the first year, eighty percent
- b. For the second year, seventy percent
- c. For the third year, sixty percent
- d. For the fourth year, fifty percent
- e. For the fifth year, forty percent
- f. For the sixth year, forty percent
- g. For the seventh year, thirty percent
- h. For the eighth year, thirty percent
- i. For the ninth year, twenty percent
- j. For the tenth year, twenty percent

       2. All qualified real estate is eligible to receive a one hundred percent exemption from taxation on the actual value added by the improvements. The exemption is for a period of three years.

       3. All qualified residential real estate, comprising of 12 or more multi-family dwelling units, is eligible to receive a 100% exemption for a period of four years.

**RESOLUTION NO. 10-71**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, IOWA GRANTING APPROVAL OF TAX ABATEMENT ON IMPROVEMENTS MADE TO REAL PROPERTY AT 4343 SOUTH 19<sup>TH</sup> STREET IN THE SOUTH 19<sup>TH</sup> STREET URBAN REVITALIZATION AREA DURING THE 2009 TAX ASSESSMENT YEAR.**

- WHEREAS,** the City Council has at its discretion the ability to approve tax abatement requests when improvements are made to real property within certain urban revitalization areas; and
- WHEREAS,** Bernard and Marilyn Glenn have made such improvements by constructing a 7,000 sq. ft. building; and
- WHEREAS,** this building is addressed as 4343 South 19<sup>th</sup> Street and is legally described as Lot 2, South Pointe Subdivision, Replat 1; and
- WHEREAS,** the building is owned by Bernard and Marilyn Glenn and occupied by Protech; and
- WHEREAS,** during the 2009 tax assessment year, eligible costs of \$45,758.00 were incurred; and
- WHEREAS,** the tax abatement request pertains to property improvements located entirely within the boundaries of the South 19<sup>th</sup> Street Urban Revitalization Area; and
- WHEREAS,** said work is consistent with all applicable city ordinances and codes, the goals and objectives of the South 19<sup>th</sup> Street Urban Revitalization Area and Section 404 of the Iowa Code; and
- WHEREAS,** the applicant has requested a partial exemption for ten years as authorized under Iowa Code 404.3 and the South 19<sup>th</sup> Street Urban Revitalization Area; and
- WHEREAS,** the tax abatement application and all necessary attachments have been reviewed and approved by the Community Development Department.

**NOW, THEREFORE, BE IT RESOLVED  
BY THE  
CITY COUNCIL OF THE  
CITY OF COUNCIL BLUFFS, IOWA**

The City Council hereby finds that the request for review of property tax abatement on improvements made to real property located at 4343 South 19<sup>th</sup> Street during the 2009 tax assessment year to be in compliance with the purpose and intent of the South 19<sup>th</sup> Street Urban Revitalization Plan and that approval of tax abatement will be in the best interest of the City of Council Bluffs, Iowa.

**BE IT FURTHER RESOLVED**

That the City Council does hereby approve tax abatement for said project for the 2009 tax assessment year.

ADOPTED  
AND  
APPROVED

February 22, 2010

\_\_\_\_\_  
Thomas P. Hanafan      Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden      City Clerk

## Council Communication

Department: Community Development Case No. N/A Applicant: Community Development	Resolution No. <u>10-72</u>	Council Action: <u>February 22, 2010</u>
<b>Subject/Title</b>		
Authorize the Mayor to Execute a 28E agreement with the Department of Natural Resources and the State Historic Preservation Office.		
<b>Background/Discussion</b>		
<p>The development of Playland Park requires the completion of a process with the Iowa Department of Natural Resources (DNR) and the National Park Service (NPS) commonly referred to as a conversion process. At the time the Playland Park parcel was developed into a park funds from the Land and Water Conservation Fund were used. In order to utilize the property for another use that value must be 'converted', through a process with the DNR and NPS, into park space on other property located within the City. The conversion process requires that other properties for recreational use be acquired. As you are aware the Community Development Department and its representatives have initiated discussion with three property owners along Valley View Drive for the voluntary acquisition of property to be used for park purposes. The properties are near existing Valley View Park.</p> <p>The Iowa Department of Natural Resources must review the application to determine if it will be allowed to 'convert' the Playland Park property value to the proposed Valley View Drive properties. An environmental screening review procedure is part of that conversion. Part of that environmental review procedure requires Section 106 review and comment by the State Historic Preservation Office (SHPO). The City hired a qualified consultant to conduct a Phase I Assessment of the property related to historic resources. The assessment recommends additional Phase I survey work on the proposed replacement properties. That survey and its findings must be reviewed as part of the Section 106 process with the State Historic Preservation Office. Because the ground is frozen and snow covered conditions are not conducive to initiate the work, the City has requested through the Iowa Department of Natural Resources that the survey work be delayed until a later date to allow the acquisition of two of the properties by the City to move forward. The 28E agreement sets up the responsibilities of all three parties so that SHPO can complete their current review. Execution of the agreement will result in the Iowa Department of Natural Resources completing their review of the actual conversion application. The agreement will be null and void at such time as the survey work is complete and the final comment is made by the SHPO. The attached agreement is in draft form, but will not change significantly in content.</p> <p>In summary the agreement is needed so that the survey work can be delayed and still allow the City to move forward with acquisition. The City has purchase agreements with two of the three property owners.</p>		
<b>Recommendation</b>		
The Community Development Department recommends the City Council authorize the Mayor to execute a 28E agreement with the Iowa Department of Natural Resources and the State Historic Preservation Office related to the environmental review of the properties included in the Playland Park Land Water Conservation Fund (LWCF) conversion process.		
Attachment: 28E Agreement draft		
Prepared by: Rose E. Brown, Urban Planner		

## 28E AGREEMENT FOR COOPERATIVE ACTION

This document constitutes an agreement under Chapter 28E of the Code of Iowa. The parties to this agreement are as follows: The State Historic Preservation Office, hereinafter referred to as the SHPO, the Department of Natural Resources, hereinafter referred to as the DNR, and the City of Council Bluffs, hereinafter referred to as the CITY.

### ARTICLE I

The purpose of this agreement is to facilitate cooperation in insuring appropriate levels of preservation, management, maintenance, and development of certain historic sites under the jurisdiction of the DNR, all pursuant to the provisions of Iowa Code Section 303.2(2)(a).

### ARTICLE II

The duration of agreement shall begin when signed by the officials of all parties, when the agreement is recorded with the Polk County Recorder and filed with the Secretary of State, and upon the City of Council Bluffs having legal possession of the properties discussed herein. This agreement shall continue in force for one calendar year following the satisfaction of the requirements above or until the review process with SHPO is considered complete. This agreement may be renewed at that time through a memorandum of mutual agreement.

### ARTICLE III

The agreement may be terminated upon 30 days written notice to either party should it be determined that either party is failing to comply with the terms of the agreement. If the legal status or statutory obligation of any involved party changes and the party is prohibited from participating in this agreement in any form, termination or modification may be affected by notification of the other party in writing. Amendment to this agreement may be made if the amendments are mutually agreeable to all parties. Any amendment to the agreement or act of termination shall be recorded with the Polk County Recorder and filed with the Secretary of State.

### ARTICLE IV

The officer of each party involved with this agreement, or their designees, shall serve as administrators of this agreement.

### ARTICLE V

#### CONDITIONS

- A. The DNR agrees to manage properties under its jurisdiction, listed on, or determined by the State Historic Preservation Officer to be eligible for, the National Register of Historic Places, in accordance with current (1) Secretary of the Interior's Standards for the Treatment of Historic Properties, 1995, including Standards for Preservation, Rehabilitation, Restoration, and Reconstruction, (2) Secretary of the Interior's Guidelines for Rehabilitating Historic Buildings, (3) The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, (4) the Secretary of the Interior's Guidelines for Evaluating and Documenting

Traditional Cultural Properties, (5) Guidelines for Protecting Cultural Landscapes: Planning, Treatment, and Management of Historic Landscapes, and (6) The Advisory Council on Historic Preservation's Guidelines for Treatment of Archaeological Properties.

- B. The DNR agrees to establish appropriate levels of preservation, management, maintenance, and development in consultation with SHPO. Consultation shall include but not be limited to SHPO review and comment on preservation, management, maintenance and development plans.
- C. If at any time during the period of this agreement the parties are unable to agree upon a specific method, manner, or procedure to preserve, manage, maintain, or develop a property, or in the event of a dispute over the interpretation of this agreement, the DNR, the CITY and the SHPO upon agreement that an impasse has been reached, shall agree upon a third party to mediate the dispute and propose a resolution of the issue. If all parties cannot agree upon a resolution of the issue, the issue shall be referred to the Governor of Iowa for final resolution.
- D. This agreement does not fiscally obligate either party to the other for compliance with current (1) Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, (2) The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes, and (3) Advisory Council on Historic Preservation's Guidelines for Treatment of Archaeological Properties.

#### ARTICLE VI

Now, therefore, and in consideration of the foregoing declarations, it is agreed by the parties to this Article of the 28E Agreement that:

- A. The CITY will complete the necessary Phase I level of archaeological investigation as requested by the SHPO prior to any ground disturbance on the property. The CITY will complete said assessment including recommended archaeological sampling after taking legal possession of the property and within one year of the effective date of this agreement; and
- B. Adherence to this agreement by the DNR and the CITY will satisfy their responsibility under the 28E agreement to consider the effects of these categories of undertakings on cultural resources through consultation with SHPO; and
- C. If during implementation of any project, the work uncovers an historic object or other resource which may be of archaeological, historical, or architectural significance, or if important new archaeological, historical, or architectural data come to light in the project area, the CITY shall avoid or minimize harm to the resource(s), contact SHPO, evaluate the resource, and develop an appropriate course of action per the requirements of the 28E agreement, and
- D. These procedures may be reviewed for possible modification at the request of all of the parties, and at any time. Either party may initiate any revision(s), including termination, to this by submitting written notice to the other parties at least 30 days in advance of the desired action, and

IN WITNESS WHEREOF the parties hereto have executed this agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Patricia L. Boddy  
Deputy Director  
Department of Natural Resources

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Patricia Ohlerking  
Deputy Historic Preservation Officer  
State Historic Society of Iowa

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Date

---

Date

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Thomas P. Hanafan  
Mayor  
City of Council Bluffs

---

Date

DRAFT

**RESOLUTION NO. 10-72**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A 28E AGREEMENT BETWEEN THE CITY OF COUNCIL BLUFFS, DEPARTMENT OF NATURAL RESOURCES AND THE STATE HISTORIC PRESERVATION OFFICE.**

**WHEREAS,** the City of Council Bluffs used federal Land and Water Conservation funds for the improvement of Playland Park; and

**WHEREAS,** the City must complete a conversion process related to the use of Playland Park for development purposes; and

**WHEREAS,** the Department of Natural Resources is responsible for the review of the Land and Water Conservation Fund conversion application; and

**WHEREAS,** the conversion process requires environmental review of the proposed replacement properties; and

**WHEREAS,** the City must undertake additional historic research surveys to satisfy the requirements of the State Historic Preservation Office prior to completion of the environmental review; and

**WHEREAS,** the 28E agreement will allow the delay of the survey work until a later date without causing the delay of the Land and Water Conservation Fund conversion application review.

**NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA**

That the City Council hereby authorizes the Mayor to execute a 28E agreement between the City of Council Bluffs, the Department of Natural Resources and the State Historic Preservation Office.

ADOPTED  
AND  
APPROVED:

February 22, 2010

\_\_\_\_\_  
Thomas P. Hanafan, Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden, City Clerk

## Council Communication

Department: Parks, Recreation and Public Property  Case/Project No.  Applicant: Larry N. Foster	Ordinance No. _____  Resolution No. <u>10-73</u>	Date: <u>February 22, 2010</u>																
<b>Subject/Title</b> Council approval of Library Air Handling Unit project consisting of removing coil and replacing drain pan and accepting the low bid from Rasmussen Mechanical Services.																		
<b>Background/Discussion</b> The air handling unit at the Library is not performing properly and a problem with water leakage exists in the HVAC room. Examination has determined the unit's existing condensation drain pan needs replacement. The required work activities include removal and replacement of both the chilled water coils and the pan. As part of this process the glycol will be drained, re-installed and pressurized. The new drain pan will be 16 gauge 304-stainless steel. The work can be completed within a week. The project will not disrupt the public's use of the Library.																		
<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Company</u></th> <th style="text-align: left;"><u>Bid</u></th> <th style="text-align: left;"><u>Replacement Coil Installed</u></th> <th style="text-align: left;"><u>Total</u></th> </tr> </thead> <tbody> <tr> <td>Rasmussen Mechanical Services</td> <td>\$9,924.00</td> <td>\$15,458.00</td> <td>\$25,382.00</td> </tr> <tr> <td>N. Pitlor &amp; Son, Inc.</td> <td>\$17,500.00</td> <td>\$17,000.00</td> <td>\$34,500.00</td> </tr> <tr> <td>McQuay International</td> <td>\$15,800.00</td> <td>\$20,890.00</td> <td>\$36,690.00</td> </tr> </tbody> </table>			<u>Company</u>	<u>Bid</u>	<u>Replacement Coil Installed</u>	<u>Total</u>	Rasmussen Mechanical Services	\$9,924.00	\$15,458.00	\$25,382.00	N. Pitlor & Son, Inc.	\$17,500.00	\$17,000.00	\$34,500.00	McQuay International	\$15,800.00	\$20,890.00	\$36,690.00
<u>Company</u>	<u>Bid</u>	<u>Replacement Coil Installed</u>	<u>Total</u>															
Rasmussen Mechanical Services	\$9,924.00	\$15,458.00	\$25,382.00															
N. Pitlor & Son, Inc.	\$17,500.00	\$17,000.00	\$34,500.00															
McQuay International	\$15,800.00	\$20,890.00	\$36,690.00															
<b>Recommendation</b> Recommendation to City Council to approve Rasmussen Mechanical Services for repairs for the Library AHU project.																		

\_\_\_\_\_  
Larry N. Foster

\_\_\_\_\_  
Thomas P. Hanafan

RESOLUTION NO. 10-73

A RESOLUTION APPROVING THE LOW BID FROM RASMUSSEN  
MECHANICAL SERVICES FOR THE LIBRARY AHU PROJECT IN THE  
AMOUNT OF \$25,382.00.

WHEREAS, the City of Council Bluffs desires to repair the AHU at the Council  
Bluffs Library; and

WHEREAS, the AHU at The Council Bluffs Library has been inspected and it has been  
verified the need for substantial repairs to the unit; and

WHEREAS, bids were sent out and Rasmussen Mechanical Services has submitted the low bid  
for the project; and

NOW, THEREFORE, BE IT RESOLVED  
BY THE  
CITY COUNCIL OF THE  
CITY OF COUNCIL BLUFFS, IOWA

That the City Council approve Rasmussen Mechanical Services as the contractor for the work needed to  
repair the AHU at the Council Bluffs Library.

ADOPTED  
AND  
APPROVED February 22, 2010

\_\_\_\_\_  
Thomas P. Hanafan          Mayor

Attest:

\_\_\_\_\_  
Marcia L. Worden          City Clerk

## COUNCIL COMMUNICATION

Department: Public Works Ordinance No. \_\_\_\_\_ First Reading February 22, 2010  
Case/Project No.: FY10-11B Resolution No. 10-74  
Applicant: Matthew Cox, City Engineer

### SUBJECT/TITLE

Council consideration of a resolution accepting the bid of Carley Construction, LLC in the amount of \$913,059.08 for the Broadway Streetscape-Phase II, also called (Downtown Streetscape-Phase VIII-Broadway). Project #FY10-11B.

### BACKGROUND/DISCUSSION

- On February 8, 2010, bids were received in the City Clerk's office as followed:

	Division I <u>General</u>	Division II <u>Pavement</u>	Division III <u>Storm Sewer</u>	Division IV <u>Sani. Sewer</u>	Division VI <u>Traffic Sign</u>	Division VIII <u>Streetscape</u>	<u>Total</u>
Carley Construction, Treynor	\$ 85,516.00	\$232,418.75	\$35,176.60	\$82,616.75	\$21,000.98	\$456,330.00	\$ 913,059.08
Daedalus Construction, Omaha	\$ 82,287.75	\$240,580.25	\$53,065.50	\$69,324.50	\$22,026.70	\$462,489.25	\$ 929,773.35
Omni Engineering, Omaha	\$ 84,065.80	\$246,065.55	\$40,106.05	\$58,918.70	\$21,662.15	\$526,265.65	\$ 977,083.90
Meco-Henne Contracting, Omaha	\$ 79,790.00	\$256,914.00	\$32,596.75	\$47,113.75	\$23,787.75	\$539,425.50	\$ 979,627.75
Tab Construction, Omaha	\$ 93,233.20	\$308,286.58	\$28,057.95	\$51,757.50	\$21,088.50	\$479,576.45	\$ 982,000.18
Leazenby Const., Council Bluffs	\$ 50,736.84	\$340,242.64	\$35,336.55	\$60,247.45	\$24,865.16	\$488,529.64	\$ 999,958.28
R. D. Blue, Crescent	\$145,763.75	\$307,577.50	\$35,557.85	\$58,328.75	\$21,302.01	\$436,883.05	\$1,005,412.91
MFT Const., Council Bluffs	\$ 97,228.90	\$268,319.26	\$47,191.17	\$59,530.34	\$25,765.29	\$590,159.72	\$1,088,194.68
Engineer's Estimate	\$ 86,399.50	\$218,689.00	\$30,431.25	\$46,25750	\$23,861.50	\$458,545.00	\$ 864,183.75
*Weathercraft Enterprises, Omaha							

\*Non-Responsive bid was not complete.

- The city, in partnership with Iowa West Foundation has implemented a program to rebuild the downtown public infrastructure and incorporate a streetscape theme. Seven phases have been completed to date. The first phase was in 1998 and the seventh was in 2008.
- To date the total cost of the program is \$14,672,000.00.
- Proposed is Phase VIII overall and Phase II for the Broadway section. Phase II is Broadway from 2<sup>nd</sup> Street to 1<sup>st</sup> Street.
- Improvements in Phase VIII include street, storm sewer, and sanitary sewer replacement. Streetscape amenities include landscaping, irrigation, walls, entry columns, interpretive elements, benches, street lights, decorative concrete and brick.
- Due to PCDC building demolition on the south side of Broadway and extensive utility relocation work in the 1<sup>st</sup> Street & Broadway intersection, the project will be constructed in two phases. Phase I, FY10-11A, was reconstructed on the north side of Broadway from 2<sup>nd</sup> Street to 1<sup>st</sup> Street intersection. This work was completed in 2009. The second phase FY10-11B will reconstruct the street between 1<sup>st</sup> and 2<sup>nd</sup> Street, and the south sidewalk. Phase II will begin in the spring of 2010.
- This is project FY10-11 in the CIP and total cost of the project is estimated at \$3,100,000. The project budget is \$1,500,000 GO Bonds, \$1,300,000 Iowa West Foundation Grant, and \$300,000 Council Bluffs Water Works. Phase II, FY10-11B – 2010 construction and engineering is estimated at \$1,100,000.
- This project includes a \$10,000 incentive if the work is completed by July 2, 2010. After that date liquidated damages will be assessed at \$1,500 for each calendar day until the project is completed.
- The sidewalk work in front of the old O'Malley's building will not be completed until the remodel of the building is done. The contractor has until August, 30<sup>th</sup> to complete this sidewalk.

Approval of this resolution	<b>RECOMMENDATION</b>
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Approval of this resolution	<b>RECOMMENDATION</b>
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**Greg Reeder, Public Works Director**

**RESOLUTION**  
**NO. 10-74**

**RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK  
TO EXECUTE AN AGREEMENT WITH  
CARLEY CONSTRUCTION, LLC FOR THE  
BROADWAY STREETSCAPE-PHASE II,  
ALSO CALLED (DOWNTOWN STREETSCAPE-PHASE VIII-BROADWAY)  
FY10-11B**

WHEREAS, the plans, specifications, and form of contract for the Broadway Streetscape-Phase II, also called (Downtown Streetscape-Phase VIII-Broadway) are on file in the office of the City Clerk; and

WHEREAS, a Notice of Public Hearing was published, as required by law, and a public hearing was held on January 11, 2010, and the plans, specifications and form of contract were approved; and

WHEREAS, Carley Construction, LLC has submitted a low bid in the amount of \$913,059.08 for this contract.

**NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA**

That the bid of Carley Construction, LLC in the amount of \$913,059.08 is hereby accepted as the lowest and best bid received for said work; and

**BE IT FURTHER RESOLVED**

That the City Council does hereby award the contract in connection with the Broadway Streetscape-Phase II, also called (Downtown Streetscape-Phase VIII-Broadway); and

**BE IT FURTHER RESOLVED**

That the Mayor and City Clerk are hereby authorized, empowered, and directed to execute an agreement with Carley Construction, LLC for and on behalf of the City of Council Bluffs, upon approval by the City Attorney of the certificate of insurance and payment and performance bonds as required by the contract specifications.

**ADOPTED  
AND  
APPROVED**

February 22, 2010

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Thomas P. Hanafan, Mayor

ATTEST:

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Marcia L. Worden, City Clerk